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THE JUL 3

at

# RULES

AND

# ORDERS

Of the COURT of

COMMON PLEAS

AT

WESTMINSTER.

---

Examined by the Original RULES and  
ORDERS.

---

Begun by Mr. *MILLES*, late Clerk of  
the Treasury of the same Court, and  
continued to *Trinity Term*, 1732.

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With an Alphabetical TABLE to the whole.

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R. GOSLING, (Assigns of *Edward Sayer, Esq*) for  
*J. Malthoe* in the *Middle-Temple Cloysters*. 1732.

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2	Term



Term. Mich. 1654.

*Concerning Attornies and Officers.*

**T**HAT all Officers and Attornies of the Court be admitted of some Inns of Court or Chancery, by the Beginning of *Hilary* Term next, or in the same Term wherein they are admitted Officers or Attornies; and be in Commons one Week in every Term, and take Chambers there; or in case that cannot be conveniently, yet to take Chambers or Dwellings in some convenient Place, and leave Notice with the Butler where their Chambers or Habitations are, under Pain of being put out of the Roll of Attornies.

To be admitted into Inns of Court or Chancery.

To be in Commons;

And To take Chambers in the Inns if it may be, or else. &c.  
Pain.

**B**

2. That



## The Rules and Orders of

When they are obliged to appear in Court each Term.

Pain, 1 Default

2 Default.

3 Default.

Appearance to be entred, and Defaulters delivered in.

Sheriffs Deputies in Court to return and receive Writs. Their Names tabled with the Clerk of the Warrants.

Clerks of Assize and their Deputies.

Also Sheriffs Deputies, &c. to appear by a certain Day, and to continue, &c.

Common Solicitors not to practise, unless admitted Attornies of either Bench, &c. Proviso.

2. That all Officers and Attornies of this Court appear in Person in this Court, upon, or before the fourteenth Day of *Michaelmas* Term; and upon, or before the seventh Day of every other Term, upon pain of ten Shillings for the first Default, twenty Shillings for the second Default, and putting out of the Roll for the third Default. The appearance to be entred with the Clerk of the Warrants, and the Defaulters to be delivered to the Court upon Oath (if required) within three Days after the Time required for Appearance.

3. That every Sheriff have his Deputy in Court to return and receive Writs, and that each Deputy yearly before *Hilary* Term have his Name and the Place of his Residence in *London* and *Westminster*, set and continued up in Tables, in the Office of Clerk of the Warrants.

4. That the Clerks of Assize, their Deputies or Assistants, do personally appear with their *Posteas* on the first Day of *Easter*, and *Michaelmas* Term; and the Deputy Sheriffs and all other Officers of the Court do personally appear by the *Essoin*-Day of every second Return of every Term; and continue there during the Residue of the Term, without some just Cause to the contrary allowed by the Court.

5. That for the future Common Solicitors be not admitted to practise in this Court unless they are admitted Attornies of either Bench; provided that it extend not to the managing of Evidence at a Trial, nor to Private Solicitors or Servants of Corporations,

tions, or other Persons in the Cases of their Masters.

6. That none be admitted an Attorney of this Court for the Time to come, unless he hath practised as a Common Solicitor in this Court by the Space of five Years now last past; or hath served, or shall have served by the Space of five Years as a Clerk to some Judge, Sergeant at Law, practising Counsellor, Attorney, Clerk or Officer of one of the Courts at *Westminster*, unless his Master die or give over his Practice, and be also upon Examination found of good Ability, and Honesty for such Employment; and that sufficient Proof (to be put into Writing) be made of such Service to the Prothonotary upon a Desire of Admittance, and filed with the Clerk of the Warrants without Fee.

Nor any Attorney to be admitted unless he has practised as a Common Solicitor for five Years past. Or served as Clerk to a Judge, Sergeant, Counsellor, Attorney, &c. Unless, &c.

Proof of Service to be filed with the Clerk of the Warrants.

7. That no Person practise in another's Name, nor that any Attorney knowingly permit another to practise in his Name, upon Pain of being put out of the Roll, excepting in Warrants of Attorney for common Recoveries.

Practising in another Man's Name.

Pain: Common Recoveries excepted.

8. That Attornies dismissed by one Court from their Practice for Misdemeanor, be not (after Certificate) admitted to practise in another Court, it being contrary to the Intent of the Law.

Attornies dismissed one Court not to be admitted in another.

9. That no Under-Sheriff or Bailiff of Sheriffs or Liberties be admitted during such their Employment to practise as Attornies, under Pain of Expulsion from the Employment of an Attorney, and not to be re-admitted.

Under-Sheriff, Bailiffs, &c. not to practise as Attornies during, &c. Pain.

# The Rules and Orders of

Attorney having not attended, &c. to have no Privilege allowed.

No Attorney to be Lessee in Ejectment or Bail in any Action.

10. That such Attornies as have not been attending their Employment in this Court by the Space of one Year last past, unless hindered by Sicknes, be not allowed their Privilege of Attornies.

11. That for the Prevention of Maintenance and Brocage, no Attorney be Lessee in an Ejectment, nor Bail for a Defendant in this Court in any Action.

Cocnern-



*Concerning Sheriffs and Bailiffs.*

**T**Hat for the Prevention and Remedy of Delays and Abuses in Sheriffs, Under-Sheriffs, Bailiffs of Liberties and their Deputies, and other Bailiffs of Sheriffs, &c. in Execution of Process and Writs. That if it shall appear that any such Officer shall wilfully delay the Execution or Return of any Process or Execution or shall take or require any undue Fees for the same, or shall give Notice to the Defendant, thereby to frustrate the Execution of any Process or Writ, or having levied Money, shall detain it in their Hands after the Time of the Return of their Writs, besides the ordinary Course of Amerciaments (the Contempt or Misdemeanor appearing, an Attachment, Information, Commitment, or Fine to be, as the Case requireth. And this as well in the Case of a late Sheriff, or Person beforementioned, as of them at present in Office.

Sheriffs, &c.  
not executing  
Process, or not  
returning them.

Or taking un-  
due Fees,  
Or giving De-  
fendant Notice,  
Or detaining  
Money levied.

To be punished  
as the Case re-  
quireth.  
And to extend  
to late Sheriffs,  
&c.

And whereas Sheriffs have taken immoderate and excessive Fees for Execution of Writs of Possession, or Restitution of Possession, contrary to Law; it is declared that such immoderate Fees ought not to be taken; and in case such shall be taken, the Court to proceed to punish the same according to Law, upon Complaint thereof made.

Sheriffs to be  
punished for  
taking immoderate  
Fees upon Writs of  
Possession and  
Restitution.

That to reform Abuses by blank Warrants granted by Sheriffs, whereby Persons are arrested, and driven to extorted Compositions

Blank Warrants to arrest  
nor to be used.



No Warrant to arrest till a Writ first come to the Sheriff.

positions for their Liberties without Process of Law; that no Warrants be granted out to any Officer to arrest or attach any Person before a Writ first come to the Sheriff.

*Concerning the Reformation and Punishment of Abuses in general.*

Jury of Attornies to inquire of Abuses.

**O**Rdered, That a Jury of able and credible Officers, Clerks and Attornies, once in three Years be impanelled, and sworn to enquire.

*Viz.* Falsties, Contempts, &c.

1. Of the Points usually inquirable by the Writ, *viz.* Falsties, Contempts, Misprisions and Offences.

Attornies and Clerks admitted notoriously unfit.

2. Of such who have been admitted Attornies or Clerks, and are notoriously unfit, their Names to be presented to the Court, and they to be punished or removed, as the Case shall require.

Punishment of such.

Of new or exacted Fees taken. And to present a Table of Fees.

3. Of new or exacted Fees, and of those that have taken them, under whatsoever Pretence, and to prepare and present a Table of the due and just Fees, that the same may be fixed and continue in every Office; and likewise for the Fleet.

The Witnesses to give Evidence, to be some Clerks, some Attornies, in every County.

And that some Persons be enjoined and sworn to give Evidence, *viz.* some Clerks of the Court, and some Attornies in every County, not excluding others.

*Concerning the better Preservation of Order among the Officers and Clerks, and Observation of Breach of Orders and Misdemeanours.*

**T**HAT the Court do once every Year in *Michaelmas* Term nominate twelve or more able and credible Practisers in the Court to continue for the Year ensuing, for these Purposes hereafter limited.

Twelve to be chosen yearly by the Court.

That they or any six of them examine such Persons as shall desire to be admitted Attornies, and appoint convenient Times and Places for the same: And in order thereunto that such Persons as shall desire to be admitted Attornies first attend the Prothonotary with his Proof of Service, then to repair to the Persons appointed to examine Attornies, and being approved, to be presented to the Court with the Assignation of his Approbation, and then to be sworn in open Court, unless some just Exception be against him.

To examine such as would be Attornies.

Such first to attend the Prothonotary. Then the Examiners. And if approved, to be sworn in open Court.

That they give Information to the Court from Time to Time of Breaches of Orders, and Miscarriages of Officers, Attornies and Clerks.

To inform the Court of breach of Orders, &c.

*That a settled Course of Practice and Proceedings be settled, especially in those Cases where there hath been Uncertainty, and that the Inconveniencies in Process, Proceedings and Pleadings may be regulated in a due Course. In order whereunto these several Things are ordered and directed according to the Method of Proceedings.*

**I. Concerning the Entering of Records and the Persons by whom.**

*Rolls to be delivered only to Clerks or entering Attornies.*

**T**HAT no Rolls be delivered to be entred but only to Clerks, or such Attornies as have entred for the Space of four Years last past, for themselves.

*A Table to be set up of those who may come to the Rolls in the Treasury.*

That a Table be set up of the Names of the Officers and Clerks that are to be admitted unto the Rolls of the Treasury: And that such and no others be admitted thereunto, and that they may resort there as well for their Occasions, as for their Learning and Instruction, during the Term, and also twice in every Week from a Month after the Term, and that every such Clerk duly attend as well the Prothonotary's Office in the Term-Time as for the entering of Judgments upon Summons given by the Prothonotary respectively.

*For their Occasions or Instruction Prothonotaries Clerks to attend the Office, &c.*

*For*



*For the Prevention of the undue Issuing of Judicial Writs; and Falsifying of Records, It is ordered,*

**T**Hat all Executions, and all other Writs issuing out of the Prothonotaries Offices be duly signed by the respective Prothonotaries before the same be sealed, and that no Exemplification of any common Recovery, or other Record which ought to be examined and signed by the Prothonotary, be sealed before the same have been signed by the Prothonotary. Nor that any Exemplification (excepting Exemplifications of Fines and common Recoveries of the present or next precedent Term) be sealed before they be first signed and examined by the Clerk of the Treasury.

Prothonotary to sign all Exemplification, Executions, and other Writs out of his Office before Sealing. All Exemplifications after two Terms to be sign'd by the Clerk of the Treasury before Sealing.

And because the Intermeddling and Dealing of Clerks in more than one Prothonotary's Office at one Time, hath been an Occasion of Disorder and Uncertainty in Proceedings: It is likewise ordered, That every Prothonotary's Clerk do apply himself from henceforth to one Prothonotary's Office only, and do give his Attendance and make his Entries in that Prothonotary's Office.

Prothonotaries Clerks must enter but in one Office.



### 2. Concerning Rolls and Records, and their Entries and Bringing in.

Causēs to be proceeded on in the same Office in which begun.

**T**HAT the whole Proceedings of any Cause after Appearance be carried on in the Office of that Prothonotary where it was first entred, or Declaration delivered.

No Rolls must be carried into the Country.

That no Rolls be carried into the Country, under Pain that the Offender be excluded from entering any more Rolls afterwards as a Clerk.

Rolls, except *Easter*, when to be brought in.

That the common Rolls of every Term, except *Easter*, be brought in to the Prothonotary fairly entred, and docketted at least ten Days before the *Essoin-Day* of the succeeding Term, under Pain of ten Shillings for every Roll wanting.

Under Pain of 10s. per Roll.

No Rolls to be delivered to such Person offending twice, &c.

And that no Rolls be delivered to such Person after any such Offence the second Time, without Special Order.

Names of Defaulters to be given into Court.

That the respective Prothonotaries before the third Day of the then next Term, do give in the Names of the Defaulters and Defaults unto the Court in Writing.

Rolls to be delivered to the Clerk of the Warrants. With a Note of Carets.

That the Rolls brought in to the Prothonotary be delivered over to the Clerk of the Warrants the Day before the *Essoin-Day* of the ensuing Term, together with a Note of the Rolls that are wanting, the same Note to be subscribed by the Clerk of the Warrants, and re-delivered to the Prothonotary.

That

## the Court of Common Pleas.

11

That the Clerk of the Warrants within five Days after Receipt of the Rolls from the Prothonotary, to deliver over the common Rolls to the Clerk of the Essoins, taking the like Note from the Clerk of the Essoins of the Rolls wanting.

Clerk of the Warrants to deliver them to the Clerk of the Essoins.

That the Clerk of the Essoins bind up the Rolls, viz. the first Part before the Appearance-Day of the second Return, the second Part before the Essoin-Day of the third Return, the third Part of the Essoin-Day of the next Term.

Time when the Clerk of the Essoins to bind them.

That the Rolls of *Easter-Term* be brought to the Prothonotary, on or before the first Day of *Trinity-Term*, delivered to the Clerk of the Warrants within six Days, to the Clerk of the Essoins within five Days after, to be bound up before the Essoin-Day of *Michaelmas-Term*, each Party subscribing the like Notes, and the Penalties the same as before.

Rolls of *Easter-Term*, how to be brought in, &c.

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### Concerning Original Suits and Process, and where laid.

**T**HAT Actions upon the Case, Trespass for Goods, Assault or Imprisonment arising in any *English* County, be laid in their proper Counties, unless they arise where Justices of *Nisi prius* seldom come. And because Trespass or Trover for Goods, Battery, Imprisonment and Slander must needs be notorious in what County they arise; the Attorney knowingly laying

Case, Trespass, Assault or Imprisonment to be laid in their proper Counties, unless, &c. Attornies laying Actions of Trespass, Trover for Goods, Battery, Imprisonment and Slander.

## The Rules and Orders of

In Foreign  
Country unless,  
&c.

To be severely  
punished.

Vifne, where  
changeable in  
transitory Ac-  
tions.

When to plead  
therein. How  
changed when  
Defendant  
comes in by  
Exigent.

ing them out of the proper County (unless in the Cases before expressed, or for such other Causes as shall be allowed by a Judge of the Court, and duly made appear to be true) to be severely punished.

That although the Declaration be delivered seven Days before the last Day of the next precedent Term, or after, yet before Plea, upon Oath made, the Vifne may be changed upon Motion in the said transitory Actions the next Term after: And the Defendant to plead to the new Action, as he should have done in the other without Delay.

That the Vifne may be changed (upon Oath) as before, tho' the Defendant come in by Exigent.

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Concerning Process, and serving thereof.

Proclamations  
on Exigents,  
*for Stat. 31*  
*El. cap. 3.*  
To be carefully  
delivered and  
proclaimed.

Of Bonds taken  
for Appearance,  
*for Stat. 23 H.*  
*6. cap. 10.*

Unless there be  
Acceptance of  
Appearance  
without Bail by  
the Plaintiff.

THat according to the Provision of the Statute of the one and thirtieth Year of Queen *Elizabeth*, all Attornies that sue out Process of Exigent be careful that Writs of Proclamation be delivered, and the Sheriff do take care duly to execute the same.

That according to the Statute of the twenty-third Year of *Henry* the Sixth, a Prisoner taken upon a *Capias* in Process be not discharged till he hath given Bond to appear, unless the Plaintiff, or his Attorney, shall consent to take an Appearance without Bail. And in such Case the Warrant of Attorney



## the Court of Common Pleas.

13

Attorney to appear, to be subscribed or accepted by the Defendant's Attorney, and such Warrant not to be revoked, and an Attachment to be granted against the Bailiff offending herein, or against the Attorney refusing to appear or procure an Appearance, having so subscribed or accepted.

Defendant's Warrant of Attorney to be subscribed and not to be revoked. Attachments against the Offender.

And forasmuch as divers Sheriffs, Bailiffs of Liberties, and their Bailiffs respectively have of late Time, contrary to Law, and against former Orders of this Court, discharged Persons taken upon Outlawries without *Supersedeas*; it is hereby declared, that such Dealing is an Abuse; and that all such, who have or shall discharge such Persons without *Supersedeas*, shall be severely punished. And that no Sheriff, Under-Sheriff, their Deputies or Bailiffs, may from henceforth discharge, or set at Liberty, any Person or Persons arrested upon any *Capias utlagat*, until he receive a *Supersedeas* according to Law from the Officer or Officers thereunto appointed.

Persons taken upon Outlawries not to be discharged without a *Supersedeas*.

The Officers, &c. offending to be severely punished.

### Concerning a Habeas Corpus to Sheriffs and Gaolers.

THat a *Habeas Corpus cum Causa ad faciendum & recipiendum*, directed to any Sheriff (other than London or Middlesex) not to be returnable *immediate*, or in the Vacation-Time, but at a Day certain in Court in the Term.

*Habeas Corpus cum causa ad faciendum & recipiendum* shall not be made returnable *immediate*.

That

Except in London and Middlesex.

That such *Habeas Corpus* to the Sheriff of London or Middlesex may be granted in Term or Vacation-Time returnable *immediate*.

And then the Sheriff must return the Writ presently, and bring the Body immediately, &c.

That in Case of *Habeas Corpus* returnable *immediate*, the Sheriff ought to make his Return the same Day that the Writ is delivered, and to bring the Body immediately as is required by the Writ, without permitting him to wander abroad by Colour or Pretence thereof.

Prisoner to be brought in Custody at the Day, and not permitted to wander in the mean Time.

That where a Writ of *Habeas Corpus* is directed to a Sheriff, Warden of the Fleet, Marshal or Gaoler, the Prisoner is to be brought in Custody, according to the Writ at the Day limited, without being permitted to wander abroad in the mean Time, upon Pretence of such Writ.

*Habeas Corpus ad respondendum* may be granted to a Keeper, &c. Upon *ret' non est invent' sur Capias*. And to be a good Cause of Detainer, &c.

That a *Habeas Corpus ad respondendum* may be granted to the Warden of the Fleet, or to the Keeper of an inferior Prison of a Liberty or Franchise, where a *Capias* is returned in Court, *Non est inventus*; such Writ to recite shortly the *Capias*, and to be returnable at a Day certain in Court, and to be a good Cause of Detainer, as well as where a *Capias ad respondendum* comes to a Sheriff.

*Ha' Cor' ad satisfaciendum* may be granted in like Manner, and the Number Rolls to be indorsed by the Attorney.

That a *Habeas Corpus ad satisfaciendum* may be granted to the Warden of the Fleet, or to such inferior Gaoler returnable in Court at a Day certain, and the Number Roll of the Judgment to be endorsed upon the Writ by the Attorney who sues it out; and such Writs to be a Cause of Detainer.

## the Court of Common Pleas.

15

That if upon a *Habeas Corpus* the Prisoner be returned charged with Process out of the upper Bench, Exchequer, and out of the Common Pleas, the Prisoner may be committed with the Cause.

If charged with Process in upper Bench or Exchequer, and out of Common Pleas, he may be committed.

That if upon a *Habeas Corpus cum causa* the Prisoner be returned charged with a Process out of the Common Bench, though returnable at a Day to come, the Prisoner may be committed with his Cause.

Commitment on Process at a Day to come.

That if upon a *Habeas Corpus*, or *Capi Corpus*, the Party be returned in Custody and bailable, and special Bail requirable, the Bail not to be taken absolutely without Consent of the Plaintiff, or his Attorney; and if *de bene esse*, the Prisoner not to be discharged till the Bail be assented unto, or the Plaintiff over-ruled in Court to accept the same upon Examination.

Of taking Bail upon *Ha. cor.* or *Capi cor.*

*De bene esse*, but not to be discharged until.

That upon every Commitment by a Judge out of Court, the Prosecutor of the *Habeas Corpus* is to have one of the Prothonotaries Clerks present at the Turning over of the Prisoner, that the Commitment may be duly entered and filed.

Upon Commitment of a Prisoner. Prothonotary's Clerk to be present.

## Concerning Habeas Corpus to Inferiour Courts and Procedendo.

THAT Writs of *Habeas Corpus*, directed to the inferiour Courts of London, Westminster, Southwark, and other Courts within five Miles of London, may be returnable immediate. And if the Defendant intendeth

Of removing Causes by *Habeas Corpus* out of inferiour Courts within five Miles of London returnable immediate.



If Bail is intended, Notice must be given to the Plaintiff, &c.

If not to be found, then to the chief Clerk, &c.

Oath to be made of such Notice, otherwise a *Procedendo*.

And if no Bail within eight Days, a *Procedendo* may be granted.

Bail must be taken *de bene esse* in the Absence of the Plaintiff, &c. If no Exception within twenty Days, the Bail to be filed.

If not filed within four Days after the twenty, then a *Procedendo* may be granted.

eth to be bailed, then upon, or within four Days after Allowance of the Writ, Notice is to be given in Writing of the Names and Addition of the Bail, the Time when, and the Judge before whom the same is intended to be put in, to the Plaintiff, or his Attorney, or him that caused the Plaint to be entred; or if none can be found, then Notice of the Premises to be left in Writing with the chief Clerk of the inferiour Court, or his Deputy, by the Party that renders the Bail, or his Attorney, and Oath made thereof; otherwise the Bail not to be taken. And a *Procedendo* granted, if desired, before Bail accepted.

That if no Bail in such Cases be put in within eight Days after the *Habeas Corpus* allowed, in those Courts when it is returnable *immediate* a *Procedendo* may be granted by any Judge of this Court, if desired before Bail taken.

And if Bail be taken in the Absence of the Plaintiff, or his Attorney, the same is to be taken *de bene esse*; and if no Exception be taken within twenty Days after Notice given to the Plaintiff, or his Attorney, of the Names of the Bail, and before whom taken, then upon Oath made of such Notice, the Bail to be delivered out to be filed.

That if Bail upon a *Habeas Corpus* be taken before a Judge at his Chamber, and not excepted against, if not filed within four Days after the twenty Days, a *Procedendo* may be granted upon Certificate that it is not filed.

That in Term-Time the Plaintiff in the inferior Court may speed the Defendant to put in, or to file his Bail by Rules given in the Bill of Pleas; and if not filed according to Rules, upon Certificate thereof, a *Procedendo* to be granted.

In Term-Time Rules to put in or file Bail may be given. If not filed upon Certificate, a *Procedendo*.

That all Writs of *Habeas Corpus* returnable in Court, be returnable at a Day certain.

Of a *Habeas Corpus* returnable in Court.

That upon Bail taken of a Person in Custody, the Judge's Clerk to deliver the Bail to the Prothonotary, to be fil'd, if assented unto; and to that End the Prothonotary's Fees to be deposited; but the Prisoner not to be discharged, until the Bail be assented unto, or over-ruled in open Court.

Bail taken of a Person in Custody to be delivered to Prothonotary to be filed. But no Discharge of Prisoner till assented to, &c.

### Concerning Special Bail.

**T**HAT if the Defendant appear upon the Summons, Attachment, or Distress, or by *Superfedens quia improvidè*, or doth truly render himself upon the Exigent, no Bail is requirable.

No Bail where Defendant appears on Attachment, Distress, *Superfedens*, &c.

That in all Causes of Removal, be it by *Habeas Corpus*, Privilege, or *Certiorari*, special Bail ought to be given.

Special Bail on Removal of Causes.

That in Causes where the Defendant comes in by *Capi corpus*, be it Debt, Detinue, Trespass for Goods, Action upon the Case (except Slander) if the Debt or Damages amount to twenty Pounds, special

Also on *Capi Corpus* if Debt or Damages amount to 20*l*.

Bail

In Slander and  
against Heirs,  
Ex<sup>r</sup> and Ad<sup>r</sup>  
excepted.  
In Covenant  
Bail at Discre-  
tion.

No Bail of  
Course in Bat-  
tery, &c.

Nor in Slander,  
except Slander  
of Title.

In Privilege no  
Bail excepted  
for Fees.

Where the Ori-  
ginal is to be  
shewn with the  
Declaration.

Unless the De-  
fendant will  
voluntarily  
take the Decla-  
ration.

Upon a Re-  
moval out of  
Interior Court.  
The new Ori-  
ginal must not  
vary from the  
Action, unless  
the Party will  
voluntarily ap-  
pear to such.  
Actions re-  
mov'd from  
Courts of  
Towns and  
Counties, where  
the Judges sel-  
dom come, must  
be laid in the  
County where  
the Town and  
County lieth.

Bail is to be given, except it be against an  
Heir, Executor or Administrator.

That in Covenant, because the Damages  
uncertain till Declaration, Bail at Discre-  
tion.

That in Battery, Conspiracy, false Impri-  
sonment, no special Bail of Course without  
special Motion and Order.

That in Slander no special Bail, except in  
Slander of Title, wherein to be left to the  
Discretion of the Judges.

That in Privilege, other than for Fees and  
Disbursements, as an Attorney in this Court,  
Bail at Discretion of the Court. In such  
Case where in a Suit by a common Person,  
special Bail is not requir'd.

That, if Bail be given upon Reversal of an  
Outlawry, or Removal by *Habeas Corpus*,  
the Original be shewn upon tendring of the  
Declaration; otherwise the Bail not liable;  
unless the Party or his Attorney will volun-  
tarily appear, or take a Declaration, without  
shewing of it.

That in Case of a Removal out of an in-  
ferior Court, or Reversal, the new Original  
to agree in the Nature of the Action, the  
Sum in Demand, and the County; otherwise  
the Bail not liable; but if the Party will vo-  
luntarily appear to such varying Original,  
to be good as to the Party; but if upon a  
Cause removed by *Habeas Corpus*, out of  
the Courts of *Canterbury, Southampton, Hull,*  
*Litchfield* or *Pool*, which are Counties where  
the Judges of *Nisi prius* seldom come, if  
the Action be transitory, it must be laid in  
the County of *Kent, Southampton, York,*  
*Stafford,*



*Stafford, or Dorset, where the Town and County lieth, and the Recognizance to be taken accordingly.*

That the Principal rendring himself at any time after Bail put in, and before or upon the Day of Appearance of the *scire facias* returned, *scire feci*, or of the second *scire facias* returned *nihil*, or in case there shall be an Action of Debt brought upon the Recognizance against the Bail, then if the Principal shall render himself upon or before the Process returned served, no further Proceedings to be against the Bail.

When the Principal may render himself in Discharge of his Bail upon *scire fa*, &c.

*Concerning Appearances, and Entries thereof.*

**T**HAT Appearances be duly entred with the Prothonotaries or Filizers of this Court respectively, with whom the same ought to be entred; but if special Bail be requirable in the Case, the Plaintiff not to be concluded by such Appearances, if he insist upon it.

Appearance to be duly entred.

But Plaintiff not to be concluded if special Bail is required.

That where an Appearance is upon the original Writ, if the Defendant's Appearance be not entred of Record, the Defendant's Attorney to give his Hand to the Plaintiff's Attorney upon the Delivery of the Declaration that he appeareth thereunto.

Attorney's Hand upon Delivery of Narr.

That any Attorney of either Bench accepting a Warrant to appear, or subscribing a Process, Declaration or Warrant to appear, be compelled to cause Appearance,

Where Attorney undertakes an Appearance shall be liable to an Attachment,

No counter-  
manding such  
Appearance.

No changing  
an Attorney  
without Rule  
or Order.

Retainer by At-  
torney of one  
Court from an  
Attorney of an-  
other Court is  
sufficient.

Where a Priso-  
ner of the Fleet  
shall appear  
(upon a Ha'  
Cor. ad respon')  
at a Stranger's  
Suit.

An Attorney of  
Record to be  
present at Re-  
versal of an  
Outlawry for  
the Defendant,  
&c.

or to be liable to an Attachment, or put out of the Roll, as the Case requires; and the Party not to be received to countermand such Appearance after his Retainer.

That no Person without Rule of Court, Order of the Judge or Prothonotary, and Notice to the adverse Party or his Attorney, change or shift his Attorney; and such Attorney newly coming in, to take Notice at his Peril of the Rules whereunto the former Attorney was liable, had he continued,

That a Retainer of an Attorney of the Common Pleas, by an Attorney of the Upper Bench, & *à Converso*, be a sufficient Excuse to the Attorney so retained, acting according to such Retainer, and the Attorney so retaining without Warrant from the Party, to be subject to the Punishment.

That if a *Capias* be returned in Court *non est inventus*, against a Prisoner in the Fleet, he be compellable to appear upon a *Habeas Corpus ad respondendum*, as well at the Suit of a Stranger, as at his Suit whereupon he is imprisoned, and to answer to a Declaration according to the Rules of the Court, or that Judgment be entred against him.

That he that reverseth an Outlawry have an Attorney of Record present, who must undertake an Appearance to a new Original. And such Attorney shall be compelled to appear; and that the Defendant or his Attorney give Notice to the Plaintiff or his Attorney of such Reversal the same Term, or in the Vacation next after it.

Concern-

Concerning Imparlanes.

**T**HAT forasmuch as some Inconveniences do sometimes happen to Plaintiffs by entering their Declarations in special Actions, it is therefore ordered, that the Plaintiffs in such special Actions shall have Liberty to enter the Imparlanes the Term following, entering the same of the first Term with an *Incipitur*, as it hath been usual in *Quare Impedit*; but that all other Imparlanes be duly entered before any Issues, Demurrers or Judgments thereupon be entered.

Of Liberty to enter Imparlanes.

Entering the same with an *Incipitur*, &c.

That if the Defendant appear the first Term, and give no Rules to declare, the Defendant's Attorney may the second Term be compelled to accept of a Declaration with Imparlance, and the Declaration may be entered as of that Term, with an Imparlance over to the next Term, or in the first Term with an *Incipitur* as before, as the Case shall require.

Attorney is compellable to accept a Declaration with Imparlance, &c.

That if the Plaintiff declare not the second Term, though the Defendant give no Rules, yet a Nonsuit may be entered at the End of the second Term upon a Continuance over by him entered by *dies datus*, but not the third Term, or after.

When the Plaintiff may be Nonsuit, tho' no Rules given.

That upon a meer real Action, or a bare *clausum fregit*, an Imparlance of Course, But in Dower after View had, if the Day to appear be upon the first Return of any

Imparlance of Course, &c.



Hillary or Trinity Term, no Imparlan-  
ce without Consent or Rule of Court.

Where no Im-  
parlan-  
ce with-  
out Consent or  
special Rule,  
except in Lon-  
don, &c.

That in Ejectment or any personal Action,  
if the Appearance be the first Return of  
Hillary or Trinity Term, no Imparlan-  
ce without Consent or special Rule in such Cau-  
ses, other than in London or Middlesex. If  
the Appearance be before *Craftin' Martin'* or  
*mense Pasch.* no Imparlan-  
ce without Con-  
sent or special Rule. But if upon or after  
those Returns, an Imparlan-  
ce of Course.

Where none in  
London, &c.  
without Con-  
sent or Rules.

In London or Middlesex, if the Appearance  
be before *Craftin. Ascen.* or before the last  
Return of any other Term, no Imparlan-  
ce without Consent or special Rule; but the  
Defendant to plead as of that Term, within  
fourteen Days after the End of the Term  
upon Rule given to answer; but if of *Cra-  
stin' Ascen'*, or the last Return, then an Im-  
parlan-  
ce of Course.

### Concerning Rules to Declare and Plead.

No Judgment  
by *nihil dicit*  
until Rule gi-  
ven to plead  
and the Day  
past.

THAT no Judgment by *nihil dicit* be en-  
tered until there be a Rule to plead,  
first given in that Prothonotary's Office  
where the Cause is entered, and the Day  
by such Rule be past, and that such Rules  
be only given in the Bills of Pleas, or o-  
ther Remembrances for that Purpose, only  
to be in the Custody of the Secondary of  
the respective Prothonotaries, during the  
Time limited for giving Rules, to the Intent  
that

Rules how to  
be entered, &c.

that all Persons concerned may have Recourse to the said Secondary, and to see the same *Gratis*; and that Clerks who usually enter for Attornies, may give Rules for Answer in the said Remembrances in all their own Causes wherein there hath been Imparlanes, except in Ejectments, so as they enter the same Rules in the Office without carrying any of the said Remembrances out of any of the said Offices; and that the Secondary set down upon the Remembrances the Day wherein such Rules are given, and that no Rules to declare or Answer be given after three Days exclusive after the End of any Term, and such Rule to be out at four Days inclusive of the Day wherein the same is given.

When Clerks may give and enter Rules.

Remembrance not to be carried out of the Office.

Day to be set down, When none may be given.

That in all Actions except Replevin (after Rules to declare are out, yet) if the Plaintiff or his known Attorney or Clerk be to be found, a Nonsuit for want of a Declaration not to be entred, unless the Plaintiff's Attorney or known Clerk be first called to for a Declaration,

When after Rules to declare are out, no Nonsuit for want of a Declaration.

That if the Plaintiff's Attorney or Clerk be called to for a Declaration, and delivers it not to the Defendant or his Attorney sometime during that Term, then the Rule being out the Defendant's Attorney may enter a Nonsuit.

Where may be a Nonsuit, the Rule being out.

That if the Plaintiff's Attorney being called to for a Declaration cannot afterwards find the Defendant's Attorney or Clerk, to save a Nonsuit, he may deliver a Declaration into the Prothonotary's Office where the Rules are given.

When the Declaration may be left in the Office.

Where a Deed,  
*&c.* must be  
 shewn, else no  
 Judgment, *&c.*

That, when a Deed, Will or Letters of Administration are to be shewn in a Declaration, the Attorney of the Plaintiff delivering a Declaration with a Subscription, that the Defendant shall not be compelled to plead till the same be shewn, no Judgment by *nihil dicit* to be entred against the Defendant till the same shewn; nor any Nonsuit upon the Plaintiff, if he shew the same before the End of the next Term.

Where upon  
 Commitment  
 of a Prisoner,  
 he may be dis-  
 charged by *Super-  
 sedas*, *&c.*

If the Defendant be committed to Prison by Process out of this Court, or *Habeas Corpus*, the Prisoner entring his Appearance with the Prothonotary in case of a Plaint, or in case of Attachment of Privilege; or with the Filizer in case of other Process, and giving Rules to declare, the Plaintiff not declaring before the End of the next Term after the Commitment, the Defendant in Reference thereunto to be discharged of his Imprisonment by *Superseas* in the End of the next Term, and Liberty for the Plaintiff to declare upon that Appearance the next Term after that at the furthest.

Where upon  
 Return of a  
 Writ and want  
 of Declaration  
 the Plaintiff  
 may be non-  
 suited.

That, if a Writ be returnable *quinque Pasc.* or the last Return of any Term, the Defendant giving Rule, and calling for a Declaration, if it be not delivered according to the former Directions, four Days or more before the Essoin-Day of the ensuing Term, may enter a Nonsuit, though above sixteen Days after the preceding Term.

That



## the Court of Common Pleas:

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That the Plaintiff having declared and given Rules for Answer, the Defendant is to deliver his Plea in Writing to the Plaintiff's Attorney or known Clerk.

When the Defendant's Plea may be delivered.

That if there be no such Attorney or Clerk to be found, or being found, refuseth to accept it, then the Plea may be left in the Office to save a Judgment.

When left in the Office.

That in any Case where a Plea or Declaration is left in the Office, no Nonsuit for Want of a Declaration, or Judgment for Want of a Plea to be entred.

No Nonsuit is so left.

That in Cases of popular Actions and Informations, or real or mixt Actions, except Ejectment, no Judgment to be entred by Default, or *Nil dicit*, without Motion in Court.

When no Judgment by *Nil dicit*.

That upon *Nul tiel* Record pleaded, and no Difficulty or Variance appearing, Judgment be entred after Rule, without Motion by the Plaintiff.

When Judgment may be without Motion.

That after any Impar lance of three Terms, without any Calling for Answer, no Judgment to be entred without a Term's Notice.

Where a Term's Notice must be.

Concern

## Concerning Declarations.

Repetitions to be avoided.

**F**OR avoiding of long and unnecessary Repetitions of the Original Writ in Actions upon the Case, and personal Actions upon penal Statutes.

When only Entry, the Nature of the Action must be repeated.

That Declarations in Actions of Trespass upon the Case, or personal Actions upon any general Statute; namely, Hue and Cry, Monopolies, and for Suits in the Admiralty, and such like, other than Debt, repeat not the Original Writ, but only the Nature of the Action, viz. *A. B.* was attach'd to answer *C. D.* in a Plea of Trespass upon the Case, or in a Plea of Trespass and Contempt, against the Form of the Statute.

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*For the Avoiding of the Common Bar and new Assignment.*

How the common Bar may be avoided.

**T**HE Declaration upon an Original, or Bill, *Quare clausum fregit*, may mention the Place certainly, and so prevent the Use and Necessity of the common Bar and new Assignment.

How the unnecessary Length of Declaration.

That unnecessary Length of Declarations be forborn. And in order thereunto,

That

## the Court of Common Pleas.

27

That in Actions of Covenant not to repeat more of the Deed than is necessary for the Assignment of the Breach, and not to repeat the Covenant in the Conclusion.

How in Covenant.

That in Actions of Slander long Preambles be forboren, and no more Inducement than what is necessary for the Maintenance of the Action, when it requires a special Inducement or *Colloquium*.

How in Slander.

That in Actions upon general Statutes the Declaration not to repeat the Statute, but to conclude against the Form of the Statute in such Case made and provided; as in Case of Debt, upon the Statute of 2 E. 6. For Tithes, the 32 H. 8. for Maintenance, and 21 Jac. of Monopoly.

How upon general Statutes.

That Action of Debt upon a Judgment had in the Courts at *Westminster*, to recite only the Judgment. But if a Judgment had by or against an Executor or Administrators, Dept thereupon to repeat the Declaration and Judgment.

Upon Judgments at *Westm*.

That before the Declaration actually entered the Plaintiff may amend his Declaration, paying Costs, or giving an Imparlance, at the Plaintiff's Election, by the Order of a Judge of the Court, or Prothonotary: But after it is entered, if the Amendment be but a small Matter, that doth not deface the Roll, yet that before Issue or Demurrer entered, it be amendable by Rule of Court upon Costs, and Liberty to plead, with a new or further Imparlance.

When a Declaration may be amended upon paying Costs, &c.

How after it is entered.

To



*To cause Care in Examination of the Declaration.*

When the Copy of Declaration delivered varies from the Original.

**T**HAT if the Plaintiff's Attorney or Clerk deliver a Copy to the Defendant's Attorney or Clerk, materially varying from the original Declaration, the Disadvantage thereof not to be cast upon the Defendant, but on the Plaintiff, whose Attorney is paid for it.

*Concerning Pleading.*

Where common Bars, &c. are to be forborn.

**T**HE Common Bar and new Assignment be forborn, where the Declaration contains the Certainty equivalent to a new Assignment.

That Pleadings be succinct, without unnecessary Repetitions.

How to plead in an Outlawry or,

That in the Pleading of an Outlawry the *mesne* Process be not repeated, but the Exigent and Outlawry joined to the commencing of the Suit.

A general Statute.

That in pleading a general Statute, the Statute be not recited, as the Statute of 21 Jac. of Limitations.

*Concern-*

*Concerning Demurrers.*

**T**HAT according to the Statute of 27 Causes to be specially assigned.  
of *Eliz.* upon Demurrers, the Causes be specially assigned, and not involved with general unapplied Expressions of double, negative pregnant, uncertain, wanting Form, and the like, but to shew specially wherein, that the other Party may (as the Case shall require) either join in Demurrer, or amend, paying Costs, or discontinue his Action.

That if it be declared, that Matters of Form, as well on the Part of him that demurs, as of him that joins in all Parts of the Pleading, are discharged; unless such as are especially assigned upon the Demurrer. Matters of Form to be especially assigned.

*Concerning Trials, and Notice of Trials and Inquiries.*

**T**HAT Notice of Trials or Inquiries in *London* or *Middlesex* (the Defendant dwelling within forty Miles of *London*) be eight Days exclusive of the Day wherein Notice is given. When eight Days exclusive, Notice near *London, &c.*

That, if the Defendant live above forty Miles distant from *London*, Notice of such Trials and Inquiries in *London* or *Middlesex* be fourteen Days, exclusive of the Day of Notice. Where fourteen Days exclusive.

That

Issues to be  
ingrossed.

That in all Issues to be tried by *Nisi prius* in *London* or *Middlesex* upon a Record of a precedent Term, the Copy of the Issue be brought to the Clerk of the Treasury, for the Ingrossing of the Record, four Days at the least before the Day of Trial of such Issue, and that all Causes to be tried in *London* or *Middlesex* be entred into the Marshal's Book four Days before the Day of Trial.

And entred in  
the Marshal's  
Book.

Eight Days  
Notice exclu-  
sive in the  
Country.

That eight Days Notice exclusive be given upon Trials in the Country, and upon Writs of Enquiry of Damages in Writs of Dower and Waste, and all other Inquiries of Damages.

When new  
Notice is to be  
given in the  
Country.

That, if the Plaintiff give Notice of a Trial, and he proceed not, the Plaintiff not to take it down to Trial again without new Notice to be given, as is before expressed, unless by Consent or Rule of Court.

When in *Lon-  
don, &c.*

But in *London* or *Middlesex*, if Notice be given of a Trial for one Sitting, and the Plaintiff be not provided to proceed: If he give Notice before that Sitting that he will try it the next Sitting, that to be held convenient Notice.

Where Costs of  
Attendance.

That in Case of such Warning, and no Proceeding, the Defendant upon Motion to have his Cost of his former Attendance, to be taxed by the Prothonotary; unless the Plaintiff give the Defendant Warning in convenient Time, that he would not proceed; or shew Cause to be allowed by the Court in Excuse of such Costs.

Unless Cause  
shewn, &c.



## the Court of Common Pleas.

21

That no Record of *Nisi prius* be signed before the Issue be entred upon the Roll.

How Issue must be entred.

That, if the Plaintiff give Notice for a Trial, and proceed not, the Defendant may take it by *Proviso* according to Law, giving Notice eight or fourteen Days, as the Case requireth, as aforesaid.

Trial by *Proviso*.

That in *London* or *Middlesex*, if no Warning for a Trial, then the Defendant not to take it by *Proviso*, to try it the same Term; but afterwards he may take it by *Proviso* according to Law, giving eight or fourteen Days Notice, as the Case requires.

In *London* and *Middlesex*.

That, if Notice be given to the Attorney of the adverse Party of a Trial upon an Issue joined, it be taken to be good Notice: And Oath made of Want of Notice to the Attorney, to turn the Proof of Notice given to the Party upon him that brought it down to Trial in that Case.

Of Notice to be given.

That, if an Issue be joined above a Year since in any Case, then one Term's Notice to be given of the Trial.

Where one Term's Notice.

Concern-

## The Rules and Orders of

### *Concerning Trials at Bar.*

Allowance af-  
ter a privy Ver-  
dict delivered.

**T**HAT for the Remedy of excessive Charges of Trials at the Bar, especially whilst the Jury lieth out, it is ordered, that a Jury lying out one Night after a privy Verdict delivered, there be allowed for the whole Diet of each Jury-man that Night no more than three Shillings four Pence a-piece, and for two Criers to each of them no more than two Shillings ordinary, besides the Charge of the Jurors Lodging.

Fees after Ver-  
dict in Court.

That after a Verdict delivered in Court, the Jury and Officers to be paid their Charges and their Fees in the Inner Treasury, without going to the Taverns or Victualling-Houses for that Cause.

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### *Concerning special Verdicts at the Bar, or by Nisi prius.*

Counsellors to  
subscribe the  
Points in Que-  
stion, &c.

**T**HAT in finding special Verdicts where the Points are single and not complicated, and no special Conclusion, the Counsel (if required) do subscribe the Points in Question, and agree to amend Omissions or Mistakes in the *mesne* Conveyance, according to the Truth, to bring the Point in Question to Judgment.

That unnecessary finding of Deeds in *hac verba*, where the Question rests not upon them, but are only Derivation of Title to be spared; and found shortly according to the Substance they bear in Reference to the Deed, as Feoffment, Lease, Grant, &c.

Deeds to be found according to the Substance, &c.

Concerning new Trials.

THAT where a Verdict finds entire Damages where Damages are the Principal, and Part not actionable, though Judgment be arrested yet by Rule of Court a *venire fac' de novo* may issue as upon an ill Verdict, and upon the new Trial the Party may sever his Damages.

When a new Trial may be had.

Concerning Judgments.

THAT in a Judgment by *non sum informatus*, or *nil dicit*, in *Eject' firme*, the *Capiatur* be entred upon the first Judgment.

*Capiatur*; where:

That upon a Cause removed by *Habeat Corpus* out of an inferior Court, having Jurisdiction of the Cause, if Judgment be given for the Plaintiff, the Costs below to be consider'd and cast into the Judgment; if for the Defendant, the Charge of putting in Bail.

When upon Causes removed.

D

That



Principal not  
to give War-  
rant against his  
Surety.

That the Principal in any Bond or Bill obligatory do not for the Time to come give Warrant to appear for, or confess Judgment against his Surety; and that after the two and twentieth of *January* next, no Judgment be confessed for, or given against the Surety upon any such Warrant given by the Principal.

Days allowed  
to sign Judg-  
ments.

That sixteen Days be allowed for the signing of Judgments after every Term, except *Easter* Term, upon Causes depending in the Term precedent.

These Rules to  
be duly obser-  
ved.

And lastly, it is declared by the Justices of this Court, that as the Court doth expect that all the Rules and Orders before mentioned be duly observed; so it is further ordered, that all other former Orders and Rules yet in force, not hereby altered, suspended, or annulled, be likewise observed and put in Execution according to the true Intent and Meaning of the same.

And all other  
former Rules.

*Ol. St. John.*  
*Edw. Atkins.*  
*Matthew Hale.*  
*Hugh Windham.*

The

The OATH to be taken by every Attorney of the Court of Common Bench at *Westminster*, before his Admittance, to be administred, openly in Court, by the chief Prothonotary.

**Y**OU shall do no Falshood or Deceit, nor consent to any to be done within this Court: And if you shall know of any to be done, you shall give Knowledge thereof to the Lord Chief Justice, or other his Brethren, Justices of this Place, that it may be reformed. You shall delay no Man for Lucre or Malice. You shall increase no Fees, but you shall be contented with the old Fees accustomed. You shall plead no foreign Pleas, nor sue any foreign Suits unlawfully, to the Hurt of any Man; but such as shall stand with the Order of Law, and your own Conscience. You shall seal all such Procests as you sue out of this Court, with the Seal thereof: And see the Fees paid for the same. You shall not willingly nor willingly sue, or procure to be sued any false Suit, nor give Aid or Consent to the same, upon Pain to be expulsed from this Court for ever. And further, You shall truly use and demean your self in the Office of an Attorney within this Court, according to your Learning and Discretion.

To do no Falshood or Deceit. Nor consent to it. And to give the Justices Notice if he know of any such. Not to delay for Lucre or Malice. Not to increase Fees. To plead no foreign Pleas. To sue no foreign Suit, but &c. To seal all Procests he sues out. And pay the Fees thereof. Not to sue, &c. any false Suit willingly. Upon Pain of of Expulsion. And truly to demean himself, &c.

So help you God:

De Termino Hil. 13 & 14 Car. 2 R.

*Rules concerning Bails.*

*Ha. Cor' to inferior Courts near London how returnable. Defendant must give Notice of Bail, &c.*

*If Plaintiff is not to be found then, &c.*

*Procedendo for want of Notice.*

**T**HAT Writs of *Habeas Corpus* directed to the inferior Courts of London, Westminster, Southwark and other Courts within five Miles of London may be returnable *immediatè*. And if the Defendant intendeth to be bailed, then upon or within four Days after Allowance of the Writ, the Day of which Allowance being endorsed by such Officer as allows the same on the Back of the said Writ, Notice is to be given in Writing of the Names and Additions of the Bail, the Time when and the Judge before whom the same is intended to be put in, to the Plaintiff or his Attorney, or him that caused the Plaint to be entred; or if none can be found, then Notice of the Premises to be left in Writing with the chief Clerk of the inferior Court, or his Deputy by the Party that tenders the Bail or his Attorney, and Oath made thereof, otherwise the Bail not to be taken, and a *Procedendo* granted if desired before Bail accepted. That if no Bail in such Cases be put in within eight Days after the *Habeas Corpus* allowed in those Courts,



Courts, when it is returnable *immediate* a *procedendo* may be granted by any Judge of this Court, if desired before Bail taken. And if Bail be taken in the Absence of the Plaintiff or his Attorney, the same is to be taken *de bene esse*. And if no Exception be taken, within twenty Days after the Bail taken, Notice having been given as aforesaid, then the Bail to be delivered out to be filed. That if Bail upon a *Habeas Corpus* be taken before a Judge at his Chamber and not disassented unto, if not filed within four Days after the twenty Days, a *procedendo* may be granted upon Certificate that it is not filed. That in Term-time the Plaintiff in the inferior Court may speed the Defendant to put in and to file his Bail by Rules given in the Bill of Pleas. And if not filed according to the Rules upon Certificate thereof, a *procedendo* to be granted. That all Writs of *Habeas Corpus* returnable in Court be returnable at a Day certain. That upon Bail take of Persons in Custody the Judge's Clerk to deliver the Bail to the Prothonotary to be filed if assented unto. And to that End the Prothonotary's Fees to be deposited, but the Prisoner not to be discharged until the Bail be assented unto, or over-ruled in open Court.

Bail taken *de bene esse*.

Days given for Exception.

A *Procedendo* upon a Certificate.

Rules given to put in or file Bail.

Ha' Cor' how returnable.

Bail taken to be filed.

No Discharge till Bail assented to.

Orl. Bridgman.  
Rob. Hyde.  
Tho. Tyrrell.  
Sam. Browne.

## The Rules and Orders of

Hill. 14 &amp; 15 Car. 2. R.

Concerning Sheriffs making Deputies and  
returning of Writs.

Sheriffs Deputies on Record.

Penalty.

To attend daily in Term-time.

To make out no Warrant till a Writ be delivered.

Not to deliver out any blank Warrants.

IT is ordered, that every Sheriff shall make and cause to be entred on Record a sufficient Deputy, to receive all manner of Writs and Procefs under the Pains and Penalties mentioned in the Statute in that Behalf made in the 23d Year of the late King Henry the Sixth, which Law shall be henceforth duly put in Execution. And it is further ordered, that the said Sheriffs, or their sufficient Deputies, shall give their personal Attendance in *Westminster-Hall* daily in the Term-time, that so they may with the more Convenience dispatch those Services, which appertain to their Offices respectively. And that no Sheriff, or Sheriff's Deputy, shall deliver or make, or cause or suffer to be delivered or made, any Warrant or Warrants before the Writ or Writs be duly sued forth and delivered to the said Sheriffs or their Deputies respectively. Neither shall the said Sheriffs nor their Deputies deliver or cause or suffer to be delivered, any Blank Warrants. Nor shall any Clerk or Attorney of this Court receive or procure to be made any such blank Warrants, upon Pain of severe Punishment, and Fine to be imposed upon the

the said Sheriffs and their Deputies, and utter Expulsion of the said Clerks or Attornies respectively offending in the Premises.

*Orl. Bridgman*

*Robt. Hyde*

*Tho. Tyrrell*

*Sam. Browne*

*Hill 14 & 15 Car. 2. B.*

*Concerning Attornies suffering others to practise in their Names.*

**W**Hereas every Attorney of this Court, as well by his Oath and the Duty of his Place, as under divers Penalties by several Acts of Parliament, and former Orders of this Court being retained to be Attorney for any Person or Persons Demandant or Plaintiff, Tenant or Defendant, in any Action or Suit in this Court is bound to deliver or cause to be delivered his Warrant of Attorney to the Office or his Deputy, ordained for the Receipt and Entry thereof in this Court. And whereas by the Statute made in the third Year of the Reign of our late Sovereign Lord King James, it is enacted, that no Attorney shall permit any other to follow any Suit in his

Recital of former Orders for Attornies to deliver their Warrants.

And not to permit others to practise in their Names.



To appear in  
Person in  
Court.

Upon Penal-  
ties, &c.

Thro' Neglect  
many Inconve-  
niencies, &c.  
have happen'd.

Name. And that every Attorney so doing, shall be excluded from being an Attorney for ever thereafter. And whereas by Order of this Court every Attorney of this Court ought to appear in Person upon or before the fourteenth Day of *Michaelmas* Term, and upon or before the seventh Day of every other Term, upon Pain of ten Shillings for the first Default, twenty Shillings for the second Default, and putting out of the Roll for the third Default, and that the Appearances should be entred with the Clerk of the Warrants, and that the Name of the Defaulters should be delivered to the Court by the Clerk of the Warrants or his Deputy, within three Days after the Time required for Appearance. Notwithstanding all which Laws and Orders through the disorderly Practice and Negligence of divers Attornies of this Court, especially of the younger sort, for want of ther Attendance upon their Office of Attorney here in Court, and permitting others to practice in their Names, and neglect to deliver their Warrants of Attorney to be filed, and entred of Record, very many great Inconveniencies, Troubles and Errors have been found and arisen of late Time more than formerly, to the Scandal of the Court, and of the honest Attornies practising therein, and the great Prejudice and Loss of many of his Majesty's good Subjects, as well Plaintiffs as Defendants, Demandants and Tenants, in their Suits depending in this Court.

For

## the Court of Common Pleas:

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For Remedy of which Mischiefs and Inconveniencies, and for avoiding of Errors for the Time to come, It is forbidden by the Justices of this Court, upon Pain of Expulsion from this Court, that no Attorney of this Court permit any other to practise in his Name. And it is further declared and ordered by this Court, that every Attorney of this Court do from henceforth appear in Person, within the Times in every Term before limited and expressed under the Penalties before-mentioned for their Defaults. And that every Attorney of this Court do file his Warrant of Attorney of the Term, wherein any Exigent is awarded, Demurrer or Issue joined, or Judgment entred, or which of them shall first happen, upon Pain of forty Shillings for every Time he offendeth, and be attainted by due Examination made by the Justices of this Court, such Warrant to be filed upon or before the Effoin-Day of every *Trinity-Term*, and within the Space of one and twenty Days next after the End of every other Term. And that no Officer of this Court do make or suffer to be made any Process or Entry, in the Name of any Person not sworn an Attorney, nor entred in the Roll of Attornies, or in the Name of any Person put out of the Roll of Attorney, either as a Discontinuer, or for any Misdemeanor, or by Rule of Court, after Notice thereof given to such Officer by the Clerk of the Warrants of this Court for the Time being, or his Deputy; and for the better effecting the due Observance of this present Order, It is lastly ordered, that

No Attorney to permit any other to practise in his Name.

His Appearance in Term-time, &c.

Warrants of Attorney to be filed, and when.

Process not to be suffered by Officers.

After Notice given thereof.

Presentment of  
the Names of  
Offenders.

That such off-  
fending Attor-  
ney may be  
examined, pu-  
nished, &c.

that the Clerk of the Warrants of this Court for the Time being, or his Deputy, or the Persons appointed yearly by the Court to give Information to the Court from Time to Time of Breaches of Orders and Miscarriages of Officers, Clerks and Attornies in every *Michaelmas*-Term, or oftner, if required, shall and may present to the Court from Time to Time, the Name and Names of every Attorney or Attornies offending against this Order, To the Intent that the Court may examine every Attorney complained against concerning any of the Matters before rehearsed, and upon attainting any such Attorney, upon due Examination had, may inflict such Punishment by Fines, Imprisonment or Expulsion, as the Case shall require, or give Directions for Informations to be exhibited against the most frequent and notorious Offenders for the greater Penalties mentioned in the Statute thereof made and provided.

*Orl. Bridgman.*

*Rob. Hyde.*

*Tho. Tyrrell.*

*Sam. Browne.*

*Hil.*



Hil. Annis 14 & 15 Car. Secundi  
Regis.

**W**Hereas many Persons arrested upon mean Process issuing out of this Court, and upon Plaints levied in inferior Courts, and removed to the Fleet by Habeas Corpus with those Causes returned upon them, have been detained thereupon for a long Time, as well in the Custody of Sheriffs and Gaolers, as in the Prison of the Fleet, without any Prosecution or Proceedings against them in this Court. Now so much as every Person, having Cause of Action against any Prisoner in the Fleet, may have speedy Proceedings against such Prisoner. Therefore, and also to prevent unjust Vexations by long detaining of Persons in Prison there for the future, It is ordered by the Justices of the Court of Common Bench this present Term of St. Hilary, that if any Person be committed to the Fleet by Habeas Corpus in this present Term, or in any other Hilary-Term, or in the Vacation following this Term, or any other Hilary-Term, unless the Plaintiff or Plaintiffs, at whose Suit the Prisoner stands charged at the Fleet, shall bring such Prisoner to the Bar of this Court by Habeas Corpus, and declare against him within six Days after Trinity-Term begun, such Prisoner may be discharged by Superfedeas to be issued of Course

Concerning  
Persons detain-  
ed long in the  
Fleet without  
any Prosecu-  
tion.

Ordered, that  
upon a Com-  
mitment in  
Hilary-Term,  
or the Vacation  
following,

Prisoner to be  
brought to the  
Bar, &c.

## The Rules and Orders of

When the Prisoner may be discharged by *Superfedeas*.

How upon a Commitment in *Easter-Term* or Vacation.

How in *Trinity-Term*, or Vacation.

How in *Michaelmas-Term*, &c.

Course out of the Prothonotary's Office of this Court, where the Commitment of the said Prisoner with his Causes is entred, so as such Prisoner first enter his Appearance by Attorney with the said Prothonotary in Case of an Attachment of Privilege, or of a Plaint, or with the Filazer upon other Process returnable in this Court: And do bring a Certificate under the Hand of the Warden or Clerk of the *Fleet*, that no Proceedings by *Habeas Corpus* have been had against him within the Time aforesaid. And that if any Person be committed to the *Fleet* in any *Easter-Term*, or in the Vacation following any *Easter-Term*, unless the Plaintiff or Plaintiffs bring such Prisoner to the Bar of this Court by *Habeas Corpus*, and declare against him within six Days after *Michaelmas-Term* begun, such Prisoner shall be discharged in Manner aforesaid. And that, if any Person be committed to the *Fleet*, in any *Trinity-Term*, or in the Vacation next following any *Trinity-Term*, unless the Plaintiff or Plaintiffs bring the Prisoner to the Bar of this Court by *Habeas Corpus*, and declare against him before the End of *Michaelmas-Term* following, such Prisoner may be discharged in Manner aforesaid. And that, if any Person be committed to the *Fleet* in any *Michaelmas-Term*, or in the Vacation following after any *Michaelmas-Term*, unless the Plaintiff or Plaintiffs bring the Prisoner to the Bar of this Court by *Habeas Corpus*, and declare against him within six Days after *Easter-Term* begun, such Prisoner may be discharged in Manner aforesaid.

faid. And the Plaintiff or Plaintiffs may declare upon such Appearance entred the next Term after such Appearance or *Superfedeas* granted. And the Attorney appearing for such Prisoner shall be bound to take a Declaration, and not afterwards. And as concerning Persons arrested, and remaining in the Custody of any Sheriff or Gaoler, upon any mean Process issuing out of this Court, It is further ordered, that if the Plaintiff or Plaintiffs, at whose Suit such Person is arrested and in Custody, do not remove such Prisoner by *Habeas Corpus* to the *Fleet*, and the Prisoner enter Appearance in Manner aforesaid, Such Prisoner may be discharged by *Superfedeas* in the End of the third Term after the Arrest, according to the Course antiently used. And the Plaintiff may declare upon such Appearance the Term following, but not after; but if such Prisoner cause Appearance to be entred for him by Attorney, and cause Notice thereof to be given to the Plaintiff, or his Attorney; and if Oath thereof be made in Writing, and filed in Court, unless the Plaintiff or Plaintiffs declare against such Prisoner in the Term next after such Appearance, the Prisoner may be discharged by *Superfedeas*. So as Oath be made by the Attorney for the Defendant, that no Declaration hath been delivered or rendred to him. And the Plaintiff or Plaintiffs may declare against the Defendant the Term next after such Appearance entred. But not afterwards.

When the Plaintiff may declare upon such Appearance. *Superfedeas* granted, &c.

How a Prisoner not removed by *Ha. Cor.* to the *Fleet* may be discharged.

How the Plaintiff may declare upon Appearance, &c.

Or else the Prisoner may be discharged by *Superfedeas*.

And



Where a Prisoner in the Fleet names an Attorney in the Court to appear, how such Defendant must plead.

Where he shall have an Imparlance till next Term.

When he must plead within eight Days, &c.

What Notice of Trial must be given to such Prisoner.

And for the Certainty of the Practice in Proceedings to be had against Prisoners in the Fleet, by Virtue of the late Act of Parliament, It is further declared and ordered by this Court, that in Case any such Prisoner shall hereafter be brought to the Bar of this Court, by a Writ of *Habeas Corpus* returnable at any Day certain being before the Day of Appearance of the third Return of any Term. And the said Prisoner name an Attorney who shall appear for him at the Suit of the Plaintiff in the Action in the said Writ specified. The said Defendant be compellable to plead by the last Day of the said Term, to a Declaration to be delivered to the said Attorney, if the Plaintiff give a Rule for him so to do. But where any Prisoner is brought to the Bar, by such Writ returnable after the Day of Appearance of such third Return of any Term, the Defendant of Course to have Imparlance until the next Term following. But if such Prisoner refuse to nominate an Attorney to appear for him, then such Prisoner is to plead within eight Days, according to the said Act, provided that there be eight Days after the Return of the *Habeas Corpus* to give a Rule to be out within the Term. And lastly, it is ordered, that after Issue joined, ten Days Notice at the least exclusive of the Day of such Notice be given to the Defendant (being actually in the Prison of the Fleet) of the

the Time of Trial of such Issue to be had.

Orl. Bridgman.

Rob. Hyde.

Tho. Tyrrell.

Hil. Annis 15 & 16 Car. Secundi  
Regis.

**W**Hereas the King's Majesty's Justices of this Court have received Information, That very many Under-Sheriffs of this Kingdom and the Dominion of *Wales*, notwithstanding several Acts of Parliament, and divers Orders of this Court to admonish them of the Duties of their Places, in Conformity thereunto, have neglected to have their Deputies upon Record, and to attend the Court in Term-time to receive Writs and Proceſs iſſuing out of and returnable in this Court, and to make and deliver due Returns of the ſame. And alſo have neglected the Execution of many ſuch Writs and Proceſs to them delivered, or having made Execution of the ſame Proceſs by Arreſt, or otherwiſe, have let Perſons go at large, without taking Security or due Order for their Appearance. And having taken the Bodies, or ſeized the Lands or Goods of Perſons outlawed upon Writs of *Capias Ut-lagar*,

Concerning  
Sheriffs Deputies upon Record.

And Neglect of  
Execution of  
Writs, &c.

And letting  
Perſons go  
without Security.

And discharging Persons taken upon Outlawry.

To the manifest Delay of Justice, &c.

Therefore ordered,

That Sheriffs make a Deputy on Record.

That Under-Sheriffs, &c. duly attend the Court.

lagat, issuing out of this Court, have discharged such Persons and their Lands and Goods without Writs of *Superfedeas* for the same, or making any Return to the Court contrary to their Oaths and Duties of their Places, and expressly against the Statute thereof lately made and provided to the manifest Delay of Justice, the Diminution of his Majesty's Revenue, the Loss of many Mens just Debts, and the Encouragement of Persons to stand in Contempt of the Laws of this Realm. All which Inconveniencies and Mischiefs his Majesty's Justices being resolved to Use their utmost Endeavour and Power to reform, by examining and severely punishing all Sheriffs, and Under-Sheriffs, and their Clerks, Deputies and Bailiffs whom they shall find hereafter faulty in the Premises. It is therefore ordered and declared by the said Justices of this Court, that every of the said Sheriffs before the last Day of this present Term; and afterwards before the last Return of the next Term, after the taking of his Oath of Sheriff, shall make a Deputy on Record in this Court, according to the Statute made in the three and twentieth Year of the Reign of King *Henry* the Sixth in that Behalf. And that all Under-Sheriffs, or their Deputies, duly attend the Court in Term-time, and that they duly execute and return the Writs and Process of this Court, and take sufficient Security, or certain Order for Appearance of all Persons by them arrested according Law.

And



And that no Sheriff, Under-Sheriff, Sheriff's Clerk, Deputy or Bailiff, nor any Steward, Bailiff of Franchise, Coroner, or their Clerk or Deputies shall set at Liberty any Person taken upon any Writ of *Capias Utlagat'* nor discharge the Lands or Goods of any Person Outlawed by them seized upon any Writs of *Capias Utlagat'* without a lawful Writ of *Supersedeas* under the Seal of this Court to them delivered for such Discharge, according to the late Act of Parliament in the thirteenth Year of his now Majesty's Reign in that Behalf made and provided. And it is further ordered, that no such *Supersedeas* be made or issued out of this Court by any Officer, Clerk, Attorney or Minister of the same, without sufficient Bail first taken according to Law and former Orders and Usages of this Court, upon Pain of incurring the severest Punishment, which, according to Law and Justice can be inflicted upon the Offenders in any of the Premisses.

Not to discharge any Person, or taken upon Outlawry without *Supersedeas*

No such *Supersedeas* without sufficient Bail.

Orl. Bridgman.  
Tho. Tyrrell.  
Sam. Browne.  
Jo. Archer.

E

Mich.

## Mich. xvii Car. 2.

No *Superfedeas* after the Return of an Exigent.

To be allowed as an Appearance until Costs secured.

Defendant shall give special Bail upon a Reversal if, &c.

And to pay full Costs.

**F**OR the better Execution of the Process of Outlawry to be made and issued by and out of this Court, and the Prevention of divers Abuses by a Neglect of the same, It is ordered that upon every Writ of Exigent which shall be sued forth of this Court, from and after this Term, if a *Superfedeas* be not put in thereunto at or before the Return thereof. That no *Superfedeas* shall by any Sheriff or other Officer, be allowed as an Appearance to any such Writ of Exigent until the Defendant shall have paid unto the Plaintiff or his Attorney, or left in the Court with one of the Prothonotaries thereof, the full and just Costs of Suit, as he shall have been at in the suing forth of such Writ of Exigent to be taxed by the said Prothonotary. And that upon reversing of all and every Outlawry the Party Defendant, which reverseth the same, shall before the Reversal thereof or any *Superfedeas* made therunto, give special Bail, if the Sum of Money or Damages expressed in the Original Writ, whereupon the Exigent was awarded, shall amount to the Sum of twenty Pounds, and the Plaintiff or Plaintiffs shall require the same, and pay to the Plaintiff or Plaintiffs or his or their Attorney, or leave in the Court for him or

## the Court of Common Pleas.

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or them, his or their full and just Costs of Suit expended in the Prosecution of the same, to be taxed as aforesaid. And for the Prevention of the great and common Abuse committed by the Sheriffs and Bailiffs for enlarging of Persons arrested upon *Capias Utlagat'* before Judgment, without a *Superfedeas* first had, It is farther ordered, that if any Sheriff or Officer whatsoever shall set at Liberty any Person arrested upon a *Capias Utlagat'*, before Judgment without a lawful *Superfedeas* in that Behalf first delivered unto him or them; That upon Affidavit thereof made and filed, every Person offending therein shall pay the Sum of forty Shillings to the Party grieved, or complaining, who shall have an Attachment of course against such Sheriff, Officer or Party offending, for the Payment of the same, and the Party or Parties so offending shall likewise undergo such other Punishments as by this Court shall be thought fit.

Further Remedy against such Sheriffs upon a Discharge without a *Superfedeas*.

Penalty 40 s.

And an Attachment of Course for Payment.

Orl. Bridgman.  
Tho. Tyrrel.  
Sam. Browne.  
Jo. Archer.



## Trin. xxi Car. 2.

Concerning an Attorney's making due Entries in that Office, wherein he was first sworn.

**W**Hereas by the ancient Course and Usage of this Court, every Attorney thereof ought to remain and continue, and make his Entries in that Prothonotary's Office only, wherein such Attorney by his own Election was first sworn and settled, and not to remove or withdraw himself or any of his Business from that Office, to any other of the Prothonotary's Offices, without the Licence of this Court, upon just Cause first shewed and allowed by the Court: And whereas several good Orders have been made by this Court for the Continuance and Observance of the said ancient Course: Nevertheless of late time several Attornies of this Court have withdrawn themselves and their Business from the respective Offices wherein they made their first Election, to enter their Causes, whereby great Mischiefs have happen'd to divers of his Majesty's good Subjects, and great Disorders and Confusion have been occasioned in this Court. For Remedy whereof, and for settling good Order in this Court for the future: And to the Intent the said ancient Course may be duly observed hereafter: It is ordered by the Justices of this Court this present *Trinity* Term, that every Attorney of this Court, who at or upon

Ordered, that such as had formerly withdrawn should reduce themselves, and continue in their first Office.

on

on the first Day of *Easter* Term, in the twentieth Year of his now Majesty's Reign, or at any Time since, hath withdrawn himself or any of his Causes from that Prothonotary's Office, where he was then settled, unto any other Office, do upon Notice of this present Order reduce himself unto that Prothonotary's Office where he was then settled, and there continue and henceforward cause all his Business and Causes to be entred and made in the said Prothonotary's Office only, and in no other Office, upon Pain of incurring the Displeasure of this Court, and such Penalties as this Court shall think fit to inflict for the first Offence, and for the second Offence to be expelled from this Court. And it is farther ordered, that no Attorney of this Court admitted since the first Day of the said *Easter* Term, nor any other Attorney hereafter to be admitted without the Licence of this Court, upon just Cause shewed and allowed by the Court, first had, shall shift from the Prothonotary's Office where he hath or shall make his own Election, and be sworn and settled, as aforesaid, upon like Penalties aforesaid. And it is farther ordered, that no Prothonotary of this Court shall hereafter permit or suffer any such removing or shifting Attorney to enter any of his Causes in his Office contrary to this present Order.

Upon Penalty  
Or.

That no Attorney hereafter shall without Licence shift from the Office he elected,  
Or.

That no Prothonotary shall suffer such shifting Attorney to enter any of his Causes in his Office.

*Jo. Vaughn.*  
*Tho. Tyrrell.*  
*Jo. Archer.*  
*W. Wylde.*

Trin. xxi Car. 2.

Concerning  
Imparlanccs or  
*Incipiturs* to  
be entred on  
Record.

Inconvenien-  
cies contrary to  
ancient Prac-  
tice.

That Impar-  
lanccs or *Incipiturs* in all  
Causes, &c. be  
entred.

**W**Hereas, upon Complaint daily made unto this Court, it doth plainly appear that many Disorders are of late crept into this Court, by reason that the Clerks and Attornies of this Court do neglect according to their Duty, and the ancient Usage and Custom of this Court, to enter upon Record Imparlanccs or *Incipiturs*, in all such Causes wherein Imparlanccs or *Incipiturs* ought to be entred. And by reason thereof many Judgments are entred and Issues are join'd before there is any Foundation in Law, or preceding Record to Warrant the same. And thereby Defendants are compelled to plead to an erroneous Copy, not warranted by any Record to the manifest and apparent Damage of his Majesty's Subjects, and contrary to the ancient Orders and Proceedings of this Court. For the Prevention whereof, to the Intent the said ancient Course may be duly observed hereafter, It is ordered by the Justices of this Court this present *Trinity* Term, that all Attornies and Clerks of this Court do henceforth duly enter or cause to be entred, Imparlanccs or *Incipit* in all Causes according to the ancient Usage of this Court, and that the want of entring an Imparlancc or *Incipitur* in every Cause, wherein Imparlanccs



lances ought to be entred, be a sufficient Cause for the Defendant to have a farther Imparlanse of Course. And that no Attorney, Clerk, or any Minister of this Court, shall hereafter give any common Rule to plead in any Cause wherein Imparlances or *Incipiturs* ought to be, and are not entred upon Record in any of the Prothonotary's Remembrances until the respective Prothonotary, in whose Office the Cause is, shall give Allowance for the giving of such Rule to plead. And that the Rule of this Court made this present Term, for the Prevention of all Debates and Controversies that may hereafter happen to arise between the respective Prothonotaries of this Court, concerning Attornies that have or shall hereafter remove themselves and their Business from one Prothonotary's Office to another, may be effectual to all Intents and Purposes, It is farther ordered by this Court this present *Trinity* Term, by and with the Consent of the respective Prothonotaries of the same Court, that the said respective Prothonotaries shall permit and suffer each other respectively by themselves or their respective Clerks to search each other's Doggets, and Judgment Books at seasonable and convenient Times, for the better Discovery and Prevention of such Abuses in the future. And that if it shall hereafter happen that any Matter or Business be henceforward entred in any Prothonotary's Office, contrary to the said Order, that then such Prothonotary shall upon Notice and Request made to him, repay the Fees received for doing

Else a farther Imparlanse of Course.

No Common Rule to plead, if no such Entry, until, &c.

Further Ordered to prevent Attornies shifting Offices.

Doggets and Judgment Books to be searched by the Prothonotaries.

And to pay each other the due Fees, &c.

## The Rules and Orders of

To be entred  
before filed,  
¶.

doing of such Business to such Prothonotary to whom such Fees did of Right belong. And that no Bill shall be filed against any Officer, Attorney, Clerk or Minister of this Court to be called in Court, in order to a Fore-judger, until the said Bill be actually entred upon Record, and a Number-Roll put upon the said Bill.

Jo. Vaughan.

Tho. Tyrrell.

Jo. Archer.

W. Wylde.

Paschæ xxiv Car. 2.

*An Order concerning the Superfedcas-Office.*

To prevent  
Abuses.

¶ **F**Orasmuch as by the Information of Richard Abbot, Gentleman, Officer of the Office aforesaid, the Court is given to understand and be informed, that divers Abuses are frequently committed contrary to the ancient Use and Custom of this Court, in Deceipt of the King's Majesty of his Seals, and defrauding and deceiving divers Officers thereof: It is ordered by the Court for Prevention of such like Frauds, Deceits

Ordered.

Deceits and evil Carriages for the Future, that no Under-Sheriff, or County-Clerk, of any County within this Realm, nor any Attorney, or other Minister of this Court, shall return or cause to be returned upon any Writ of *Exigi Facias* issuing out of, or returnable in this Court, any false Return of *Reddidit se*, where in Truth the Defendant hath not rendred himself to the Sheriff: And that no Clerk, Attorney, or other Minister of this Court shall enter, or cause to be entred, any *Retraxit* with any Under-Sheriff, County-Clerk, or other Minister aforesaid whatsoever, upon any Writ or Writs of *Exigi Facias*, issuing out of, and returnable in this Court, until the same *Retraxit* be entred upon the same Roll, upon which the said Exigent is awarded of that present Term in which the same is returnable. And that no farther Proceeding be in that Cause, after the Party outlawed, by Filing a new Original, or by any other Means, or Ways whatsoever, to deceive the King's Majesty of his Seals, and the aforesaid Officer of the *Superfedeas* Office of his just Fees, for making and signing of the Writs of *Superfedeas quia impravide*, to such Writs of Exigent, or any other Officers of their just Fees. And that no Under-Sheriff, or County-Clerk aforesaid, or other Minister of the same Court whatsoever, from and after the End of this present Term, shall receive any Writ of *Superfedeas*, or allow

That no Under-Sheriff, or County-Clerk, shall return a *Reddidit se*.

Where the Defendant hath not rendred himself.

No *Retraxit* with the Under-Sheriff.

Until it be entred on the Roll.

No Proceedings, &c. to prevent Fees of a *Superfedeas quia impravide*, &c.

*Superfedeas* to be duly signed and sealed.



Where none  
shall give or  
receive any Co-  
pies of Decla-  
rations founded  
upon an Exi-  
gent.

low any such Writ upon his or their Book or Books, File or Files, until the same be duly signed by the proper Officer of the said Office, and also sealed. And lastly, It is ordered that no Attorney, or other Minister of this Court, either for Plaintiff or Defendant, shall give or receive any Copy or Copies, of Declarations founded upon any Writ of *Exigi facias*, until the King's Majesty's Writ of *Superfedeas* be duly signed and sealed, and allowed with the Sheriff, Under-Sheriff, or his lawful Deputy, of the County where the Exigent is laid.

*Jo. Vaughan.*  
*Jo. Archer.*  
*W. Wylde.*  
*Rob. Atkyns.*

### Paschæ xxiv Car. 2.

Concerning en-  
tring Appear-  
ances for De-  
fendants, &c.

**W**Hereas several irregular Attornies, retained to appear for Defendants, have, contrary to the Law and Usage of this Court, neglected to enter Appearances for such Defendants, to the Delay of Plaintiffs, Damage

Damage of Defendants, Abuse of this Court, and to the Defrauding the King's Majesty of the Duty of Six-pence, for every Appearance given by a late Act of Parliament, intituled, *An Act for laying Impositions upon Proceedings in Law*: For Remedy whereof, it is ordered by the Justices of this Court in this present *Easter-Term*, That every Attorney retained to appear for any Defendant to any Writ issuing out of this Court, which are made by the respective Filacers of this Court, shall from henceforth according to the Course of this Court, enter the Appearances of all Defendants with the proper Filacer of this Court, of the City or County from whom such Process respectively did issue where the Action is laid, and pay the said Duty of Six-pence unto his Majesty to the said Filacer, together with the said Filacer's Fee upon the Penalties in the said Act of Parliament mentioned. And it is farther ordered, that no Defendant shall be permitted to imparle, amend his Plea, or move to change the Venue in any Action until his Appearance be entred as aforesaid. And that no Attorney of this Court shall receive any Declaration, unless an Appearance be first entred with the Filacer, as aforesaid, under the like Penalty. And that no Attorney shall deliver, or cause to be deliver'd, any Declaration or Count to the Defendant's or Tenant's Attorney, or to any Person for him until the Appearance (to warrant such Delivery) be duly entred with the proper Filacer, under the Penalty to be expelled the Court. And it is farther ordered for the better

Ordered,  
That Attornies  
shall enter the  
Appearances  
for the Defen-  
dants with the  
proper Filacers,  
&c.

No Imparlan-  
ce, to be al-  
lowed.

Nor Declara-  
tion to be re-  
ceived or deli-  
vered till Ap-  
pearance en-  
tered.

Penalty.

## The Rules and Orders of

The Filacers  
may peruse the  
Prothonotaries  
Doggets.

better discovering and punishing of Offenders against this Order, That the respective Filacers of this Court may at all convenient Times freely peruse the Doggets and other Memorials of the Prothonotaries respectively of this Court, to the End that in every Term they may deliver in Writing the Names of all Attornies of this Court, who shall not have entred the Appearances of such Defendants who employ them with the proper Filacer of this Court, to the Lord Chief Justice of this Court, or his Brethren, (which they are hereby required diligently to do,) to the End the said Justices may, without Remissness, proceed against such as shall be found Offenders against this Order.

*Jo. Vaughan.*  
*Jo. Archer.*  
*W. Wylde.*  
*Rob. Athyns.*

Pascha



Paschæ xxvii Car. 2.

*An Order concerning the Delivering of Copies of special Verdicts and Demurrers unto the Justices of this Court, in all Causes entred into the Court-Books for Argument at the Bar.*

**I**T is ordered by the Court, That every Attorney of this Court towards any such Cause, shall deliver true Copies of the Record thereof to the respective Justices of this Court, by the Space of one whole Week at the least next before the Day appointed for such Argument. Namely, The Attorney for the Plaintiff one Copy thereof to the Lord Chief Justice, and another to the Senior Judge. And the Attorney for the Defendant, like Copies to each of the other two Justices of this Court for the Time being, according to the antient Course here used, under such Penalty as the Court shall think fit to inflict upon the Attorney neglecting his Duty therein. And it is farther ordered by the Court, That no Argument by Counsel on either Side shall be heard at the Bar until Books be delivered to all the Judges. Provided nevertheless, That in case the Attorney of either Party shall not deliver Books as he ought, then

Copies to be delivered to the Justices.

Two by the Plaintiff's,

And two by the Defendant's Attorney.

Under Penalty, &c.

No Argument to be heard till the Books be delivered.

if

# The Rules and Orders of

if the Attorney on the other Side for expediting his Client's Cause will deliver Books to all the Judges, three Days at the least before the Argument, Counsel shall be heard on his Client's Behalf at the Day appointed. And the Attorney delivering Books, as aforesaid, shall be imburfed the Charges of delivering the two Books, which ought to have been delivered by the Attorney of the adverse Party, which Charges the said Attorney shall be bound to pay upon Demand thereof. And lastly, it is ordered, That if the Charges of Delivering the said two Books shall not be paid before Judgment shall be given in the Cause, the Charges of Delivering the said Books shall be allowed upon taxing Costs. And in that Case the Attorney shall not be compelled to pay the said Costs. But if no Costs are to be taxed in the Case, then the Attorney making Default in Delivering of Books, as aforesaid, shall be compelled to pay the Charges of the Copies so delivered by the Attorney of the adverse Party, by Attachment, or otherwise, as the Court shall think fit,

If not paid for before Judgment, then to be allowed upon taxing Costs.

If no Costs to be paid, then he shall be compelled by an Attachment, &c.

by the Court.

*Fra. North.  
Hugh Wyndham.  
Rob. Askyns.  
Wm. Ellys.*

*Triti.*

Trin. xxviii Car. 2.

*A Rule concerning Allowances of Writs of Error, and Nonsuits upon them.*

**F**Orasmuch as Information is given to the Lord Chief Justice of the Court of Common Pleas, that several Attornies of the said Court, do make out Execution upon Judgments, whereupon Writs of Error are brought, without giving Rules, or signing *Non-pros* with the Clerk of the Errors (to whom the same particularly belongs,) and do sue out Writs of Error, and shew the same to the Plaintiff's Attorney in the Action, without bringing them to the Clerk of the Errors, or putting in of Bail before the Lord Chief Justice of the said Court, according to the several Statutes in that Case made. For preventing of which irregular Practices, it is ordered by the Lord Chief Justice of the said Court, that for the Future no Attorney of the said Court, do or shall make out any Executions, *Non obstante Brevis de Errore*, until they have had a Certificate from the Clerk of the Errors, that the Record is not removed, and a *Non-pros* thereupon duly signed, and that all Attornies, do forthwith bring their Writs of Error by them sued out to the Clerk of the Errors, to be allowed according to the antient Practice of the

Ordered,  
That no Execution be sued out *Non obstante brevis de Errore* until a Certificate, &c.

And that all Writs of Error sued out be brought to the Clerk of the Errors, &c.



Court; or in Default thereof, the Plaintiff's Attorney in the Action is, and may be, at Liberty to proceed to Execution.

*Fra. North.*

Mich. xxviii Car. 2.

That Writs of Error be brought to the Clerk of the Errors, &c. or no Stay of Execution.

Special Bail and a Superse-  
deas.

No Execution without a Certificate, &c.

**O**rdinatum est quod omnia brevvia de Er-  
rore indilate deliberentur Clerico Erro-  
rum pro tempore existen' Quodque nemo tene-  
bitur abstinere a prosecutione executionis pre-  
textu alicujus brevis de Errore priusquam  
predictum breve deliberatur Clerico Errorum  
& in casibus ubi speciale Ballium requiritur,  
Nisi querens super tali brevi de Errore infra  
quatuor dies post deliberationem inde impo-  
net Ballium secundum legem, & obtinebit  
breve de Superse-  
deas superinde Defendens po-  
terit procedere ad executionem non obstante  
tali brevi de Errore. Et ulterius ordinat' est  
quod post breve de Errore debito modo allocat'  
& Superse-  
deas superinde obtent' nulla fiet Ex-  
ecutio pro non transcribend' Record' in Ban-  
cum Regis, sine Certificatione in scriptis per  
Clericum Errorum, quod querens in tali brevi  
de Errore fecit defali' in transcribend' Record'  
in Bancum Regis juxta Regulam Curia prius  
de cursu dand'.

*Fra. North.* } *Rob. Atkyns.*  
*Hugh Wyndham.* } *Will. Scroggs.*

*Hil.*

Hill. xxviii & xxix Car: 2.

**W**Hereas several cautionary Rules have been, and are usually made by this Court, and directed to be left with the Officers, viz. the *Custos Brevium*, Clerk of the King's Silver and Chirographer, for the staying of Fines suggested to have been acknowledged by Infants, or Feme Coverts without the Consent of their Husbands, or Persons of *non sane memorie*, or otherwise disabled in Law to acknowledge the same, which Rules being numerous, and the Persons concerned therein being negligent in the renewing and continuing thereof as they ought to do every Term, and in length of Time the Parties disabled, as aforesaid by Marriage or otherwise, having changed their Names. It becomes impossible for the said Officers duly to observe the said Rules incumbent on them for staying such Fines. It is therefore ordered, that all Rules heretofore made for the staying any Fine or Fines upon any such or the like Suggestion or Occasion, as aforesaid, shall be renewed or continued, and Copies thereof left with the said respective Officers before the End of *Easter Term* next, or otherwise that the same be no way obligatory upon the said Officers or any of them. And that for the future all Persons making

To prevent passing Fines acknowledged by Infants, &c.

Or others disabled in Law to acknowledge the same.

Ordered,  
That all former Rules relating thereto be renewed,  
&c.

Future Rules  
to be entred  
and continue.

Copies to be  
left with the  
respective Offi-  
cers, &c.

Persons con-  
cerned to search  
the Office  
Books.

All *Caveats*  
for stopping  
Fines and Re-  
coveries to be  
renewed every  
Term, &c.

any Complaint against such Fines acknow-  
ledged by Persons so disabled as aforesaid,  
or by any Person in the Name of another,  
or by the like Deceit, shall from Term to  
Term so long as they expect Benefit or Ob-  
servance of such Rule, enter and continue  
the same Rule for that Term, or leave Co-  
pies thereof with the said respective Offi-  
cers that the same may thereby be the  
better taken Notice of, or in Default thereof,  
the said Officers or any of them shall not  
stand farther obliged thereby. And all Per-  
sons concerned in the obtaining or Prosecu-  
ting such Rules, for the staying such Fines so  
levied as aforesaid, their Attornies or Clerks  
are hereby enjoin'd every Term to search and  
see the Books and Entry of Fines with the  
Clerk of the King's Silver, or other Officers  
where Entries are kept for that Purpose. In  
as much as it is not possible for the Officers  
to take that Care, for the stopping of such  
Fines and Recoveries, as by Order of Court  
they shall be enjoined to stop, by Reason of  
the Multiplicity of old Orders which are ne-  
ver recalled, so that they cannot know which  
Orders are in Force; It is therefore ordered,  
that for the future all manner of *Caveats*,  
and Orders for the stopping Fines and Re-  
coveries, to be renewed every Term, or else  
to lose their Force.

*Fra. North.*

*Hugh Windham.*

*Rob. Atkins.*

*Will. Scroggs.*

*Palch.*



Pasch. xxix Car. 2.

**F**Orasmuch as it hath been represented to this Court by the Clerk of the King's Silver of this Court, that it is not possible for him to take care of the stopping of such Fines, as by order of Court he is enjoined to stop, by reason of the Multitude of old Orders concerning this Matter, which have been granted and never recalled, so that he cannot know which Orders stand in Force, and which are determined. It is therefore ordered, that for the future all manner of *Caveats* and Orders for the Stopping any Fines, shall be renewed every Term, and Copies thereof left with the Clerk of the King's Silver, for which he is to demand only his ancient Fee of 3 s. and 4 d. the Term as aforesaid, and in Default thereof, all *Caveats* that shall not be so renewed shall lose their Force and be void.

Concerning  
stopping of  
Fines.

Ordered, that  
all such *Caveats*  
and Orders  
shall be renewed,  
and Copies  
left with the  
Clerk of the  
King's Silver,  
or.

*Fra. North.*  
*Hugh Wyndham.*  
*Rob. Atkins.*  
*Will. Scroggs.*

Trin. xxix Car. 2.

For admitting  
Officers and  
Attornies of  
some Inns of  
Court or Chan-  
cery.

Ordered, that  
all Attornies  
except, &c.  
should be ad-  
mitted.

**W**Hereas divers Complaints have been made to this Court of the manifold Inconveniencies and Mischiefs that daily happen, for that many of the Officers and Attornies of the said Court, having publick and considerable Employments in the Law, are not admitted of any of the Inns of Court or Chancery, where if they were, they might be better known and more readily resorted to, and the better manage their Affairs, but lodge and keep their Offices in Places obscure and remote from the said Inns of Court and Chancery, contrary to the ancient Course and Usage, and to the great Damage of the King's People through Surprizes hapning, and Advantages thence taken and insisted upon, for Prevention of which in time to come, it is ordered by the Justices of this Court, that all Attornies already admitted of this Court, except such as dwell in *London* and *Westminster*, and the Suburbs thereof, or in the Burrough of *Southwark*, and the Liberty of *St. Katharine* near the *Tower of London*,) shall be admitted of some of the Inns of Court or Chancery, before the End of *Michaelmas* Term next coming, and take Chambers there, if conveniently that may be done, else that they take Chambers or Lodgings in  
some

some convenient Places near the said Inns, and leave Word with the Butlers of such Inns where their Chambers or Habitations are, upon Pain of being put out of the Roll of Attornies. And that no Person whatsoever (except as is above excepted,) shall hereafter be sworn an Attorney of this Court, unless he be first admitted of some of the Inns aforesaid, and bring and produce in Court, at the Time of his being sworn, a Certificate under the Hand of the Treasurer or Principal of the said Inn whereof he is admitted, testifying his Admission, which Certificate every Attorney so sworn shall deliver to the Clerk of the Warrants of this Court for the Time being, to be by him filed before such Attorney's Name shall be entred into the Roll of Attornies of his said Court, remaining with the said Clerk of the Warrants, unto which File of Certificates the Treasurers and Principals aforesaid may from time to time resort as they shall see Cause.

How to be sworn for the future; a Certificate of Admission to be produced,

And delivered to the Clerk of the Warrants, &c. to be filed.

*Fra. North.*  
*Hugh Wyndham.*  
*Rob. Atkins.*  
*Will. Scroggs.*



## Trin. xxix Car. 2.

How Records  
of *Nisi prius* are  
to be ingrossed  
and entred on  
the Roll.

How by the  
Clerks of the  
Treasury.

**I**T is ordered by this Court, that the respective Prothonotaries do take Care that every Record of *Nisi prius* that is signed by them be ingrossed in a fair legible Character, and so entred on the Roll, and that at the Beginning of every Pleading it be begun with a new Line, and the first Word thereof in a greater Character than the rest. And that in all Actions that have divers Narrs, they give Notice thereof by Figures in the Margent of such Record of *Nisi prius*. And in Default thereof the said Prothonotary sign not the same. And it is likewise ordered, that Mr. *Ingram* that doth sign, and the respective Clerks of the Treasury of this Court that do ingross Records of *Nisi prius*, from thence do from time to time take the same Care of all Records made out of the said Treasury. And that all the Records of *Nisi prius*, that shall be ingrossed in this Court for the future, be of the exact Breadth of the Rolls of this Court, and not broader or lesser.

*Fra. North.*  
*Hugh Wyndham.*  
*Rob. Atkyns.*  
*Will. Scroggs.*

Trin.

Trin. xxix Car. 2.

**W**Hereas Complaints have been made to this Court, that divers Persons have sued out Writs of Privilege and Attachments at their own Suits, as Attornies of this Court, who have either discontinued or had their Names put out of the Roll of Attornies, remaining with the Clerk of the Warrants of this Court, or were never entered upon the Roll, and yet have prosecuted such Writs so as to free themselves from Arrests, or to force Bail where none ought to be given; for the Prevention of which Abuses, it is ordered, that the Clerk of the Warrants at the End of this and every other Term, shall certifie under his Hand to the Seal-Office of this Court, the Names of all those Attornies that have discontinued and that are fore-judged the Court, and put out of the Roll, and have not filed any Warrant of Attorney, nor continued their Names upon the Roll for above four Terms past, and that hereupon for such Persons no Writ of Privilege or Attachment be sealed until they shall have a Certificate from the said Clerk of the Warrants, or have their said Writs by him signed, to testify that their Names are upon the Roll of Attornies, for which no Fee is to be paid. And it is, farther ordered, that no Attorney

To prevent Attornies that have discontinued, &c. to sue out Writs of Privilege.

Ordered, that the Clerks of the Warrants certifie such Attornies Names to the Seal-Office, &c.

Certificate or signing by the Clerks of the Warrants.

## The Rules and Orders of

ney, at any time sworn and entred upon the Roll, shall have his Privilege as a Clerk to any Prothonotary of this Court, but only as Attorney according to the ancient Custom.

Fra. North.  
Hugh Wyndham.  
Rob. Askyns.  
Will. Scroggs.

## Trin. xxix. Car. 2.

*Regula generalis concernen' Recorda de Nisi prius extra Cur' hic imposterum emanan'.*

To prevent the Delay of Attornies in not prosecuting Records of Nisi prius in a fit Time.

How to be signed.

ff. **D**Ecimo sexto Junii pro meliori reformatione & preventionem multarum incon-  
venienciarum ratione negligenc' & dilationum  
diversorum Attorn' hujus Cur' subdit' Dom'  
Regis nunc contingen' in non prosecutione Re-  
cord' predict' pro triationibus exit' ad Assisas  
infra tempus opportunum post clausum Termini  
prox' preceden' hujusmodi Assisas contra anti-  
quum usum & cursum hujus Cur' Ordinat' est  
quod omnia recorda predicta extra Cur' hic e-  
manan' erunt signat' per respectivos Prothono-  
iar' dict' Cur' ac signat' & sigillat' per Clericum  
Tbe-



*Theſaurar' vel al' personam in ea parte deputat' infra spatium trium septimanarum prox' post finem hujus Termin' & infra idem spatium prox' post clausum cujuslibet Termin' Sancti Hillarii & cujuslibet Termin' Sancta Trinitatis in futur'. Et non postea nisi pro rationabili causa special' Warrant' proinde obtentum fuerit.*

*Per Curiam.*

Fra. North.

Hugh Wyndham.

Rob. Atkyns.

Will. Scroggs.

**Trin. xxix Car. 2.**

*A Rule for the better Observation of a late Act of Parliament made concerning Judgments.*

**W**Hereas by an Act of this present 29 Car. 2. Parliament, it is enacted, that from and after the four and twentieth Day of June next, every Judge or Officer of this Court, that shall sign any Judgment, shall, at the Signing of the same, (without Fee for doing the same,) set down the Day of the Month and Year of his so doing, upon the Paper-Book which he shall

Concerning signing of Judgments, and setting down the Day of the Month, &c.

## The Rules and Orders of

ney, at any time sworn and entred upon the Roll, shall have his Privilege as a Clerk to any Prothonotary of this Court, but only as Attorney according to the ancient Custom.

Fra. North.  
Hugh Wyndham.  
Rob. Askyns.  
Will. Scroggs.

Trin. xxix. Car. 2.

*Regula generalis concernen' Recorda de Nisi prius extra Cur' hic imposterum emanan'.*

To prevent the Delay of Attornies in not prosecuting Records of Nisi prius in a fit Time.

How to be signed.

¶ **D**Ecimo sexto Junii pro meliori reformatione & preventionem multarum inconvenienciarum ratione negligenc' & dilationum diversorum Attorn' hujus Cur' subdit' Dom' Regis nunc contingen' in non prosecutione Record' predict' pro triationibus exit' ad Assisas infra tempus opportunum post clausum Termini prox' preceden' hujusmodi Assisas contra antiquum usum & cursum hujus Cur' Ordinac' est quod omnia recorda predicta extra Cur' hic emanan' erunt signat' per respectivos Prothonotari' dict' Cur' ac signat' & sigillat' per Clericum  
The-

*Theſaurar' vel al' personam in ea parte deputat' infra spatium trium septimanarum prox' post finem hujus Termini & infra idem spatium prox' post clausum cujuslibet Termini Sancti Hillarii & cujuslibet Termini Sancta Trinitatis in futur'. Et non postea nisi pro rationabili causa special' Warrant' proinde obtentum fuerit.*

*Per Curiam.*

Fra. North.

Hugh Wyndham.

Rob. Atkyns.

Will. Scroggs.

**Trin. xxix Car. 2.**

*A Rule for the better Observation of a late Act of Parliament made concerning Judgments.*

**W**Hereas by an Act of this present 29 Car. 2. Parliament, it is enacted, that from and after the four and twentieth Day of June next, every Judge or Officer of this Court, that shall sign any Judgment, shall, at the Signing of the same, (without Fee for doing the same,) set down the Day of the Month and Year of his so doing, upon the Paper-Book which he shall

Concerning signing of Judgments, and setting down the Day of the Month, &c.



Ordered, that  
the Paper-  
Books whereon  
the Judgments  
are signed be  
produced.

That the Pro-  
thonotary may  
see if the Days  
agree.

How the Rolls  
are to be  
brought in  
*Trinity-Term.*

*Michs-Term.*

*Hillary-Term.*

shall so sign, the which Day of the Month and Year shall be also entred upon the Margent of the Roll of the Record, where such Judgment shall be entred: Now to the End the same may be duly and justly done, in Pursuance of the said Act, it is ordered by this Court, that the respective Attornies and Clerks of this Court that shall procure any Judgment to be so signed as aforesaid, (after the said xxiv Day of June,) shall at the bringing in of their Rolls to the respective Prothonotary, at the same Time whereon such Judgments are entred, produce the respective Paper-Books whereon such Judgments are signed, that so the respective Prothonotary may better examine the respective Days, entred on the Margent of the Roll of each particular Judgment, that they do agree with the respective Days, signed by such Prothonotary on the respective Paper-Books. And to the End that the said respective Prothonotaries may the better perform their Duty herein, it is farther ordered by this Court, that every Attorney and Clerk that shall make such Entries, shall bring in their respective Rolls to the respective Prothonotaries in Manner and Form following, that is to say, the Rolls of every *Trinity-Term* in every Year, at or before the Feast-Day of *St. Michael the Archangel*, then next following, and the respective Rolls of every *Michaelmas-Term*, in every Year, at or before the Feast-Day of *St. Thomas the Apostle*, then next likewise following, and also the respective Rolls of every *Hillary-Term* in every

every Year, at or before the Feast-Day of the *Annunciation* of our Lady the *Virgin*, then next likewise following, and also the respective Rolls of every *Easter-Term* in every Year, at or before the first Day of every *Trinity-Term* in every Year, then next likewise following, under such Pains and Punishments upon every Default made by any Attorney or Clerk of this Court, as this Court shall think fit to inflict on such Defaulters. And it is farther ordered, that upon the Signing of all Judgments, by the respective Prothonotaries of this Court, upon *Postea* Writs of *Inquiry*, special *Verdicts*, *Demurrers*, *Nul tiel Records*, *Relicta Verificatiōe*, and such like Judgments, the same shall be delivered over forthwith, after such Signing, to the respective Clerks of the Judgments in each Office, that so the respective Days, being the Time when such Judgments are signed, may be drawn up in the respective Judgment Papers in each Prothonotary's Office, that so the same may be entred on the Margent of the Roll of every such Record, where such Judgment is entred. And it is farther ordered, that the respective Prothonotary shall not sign any Judgment by such Confession, either by *Non sum inform*, or *Nihil dic*, unless the same be brought to be signed within twenty Days after the respective Ends of every *Trinity*, *Michaelmas* or *Hilary-Terms* in every Year respectively, and at or before the first Day of every *Trinity-Term* in every Year, unless such Attorney or Clerk do produce before such

*Easter-Term.*

Under Pain and Punishment, &c.

Judgments upon Writs of Inquiry.

To be delivered over to the Clerk of the Judgments.

Judgment by Confession either by *Non sum inform* or *Nihil dic*, within what Time to be signed,

Protho-

Prothonotary a Warrant, or Warrants of Attorney, that do bear Date after the End of every such Term, and then such Judgments on such Warrants so produced, may be signed at or before the Effoin-Day of every succeeding Term in every Year, and not after.

*Fra. North.*

*Hugh Wyndham.*

*Rob. Atkyns.*

*Will. Scroggs.*

**Mich. xxix Car. 2.**

Ordered, that such Writs and Warrants as relate to Recoveries be left with the Prothonotary at the Examining and Signing the Exemplifications, with the usual Fees for Filing them with the *Custos Brevium* and Clerk of the Warrants.

**T**Hrough the great Complaints that have been made to this Court, of the Neglects of Attornies and Clerks, to file the Writs and Warrants of Attorney, whereupon common Recoveries have been suffered, and of the Mischiefs that have thereupon hapned; and for the Prevention of such Mischiefs and Dangers in Time to come, it is ordered, as well by the Consent of the *Custos Brevium*, as of the Prothonotaries and Clerk of the Warrants of this Court, that at all Times hereafter when the said Prothonotaries shall examine,



examine, and sign the Exemplifications of such Recoveries, they in their respective Offices do then cause all the said Writs, being sealed and duly returned, and all Warrants of Attorney thereupon taken without Writ to be left in their Hands to be filed, with the usual Fees for filing the same, without *post Terminum*. And that the said *Custos Brevium* and Clerk of the Warrants, or their known Deputies, shall receive from the said Prothonotaries in their respective Offices, the said Writs and Warrants of Attorney, with the said Fees for Filing thereof in Manner following, to wit, for the said Writs and Warrants prosecuted and perfected of this present Term, and every other Term of St. Michael, in Easter-Term then next following, and for the said Writs and Warrants of Attorney of every Hilary-Term, in Trinity-Term next after, and for the said Writs and Warrants of Attorney of every Easter-Term, in Michaelmas-Term next after, and for the said Writs and Warrants of Attorney of every Trinity-Term, in Hilary-Term then next following. And that the said *Custos Brevium*, and Clerk of the Warrants, or their said Deputies, shall give Receipts under their Hand of all such Writs and Warrants, as shall be from Time to Time received from each of the said Prothonotaries by Way of Duplicate, containing the County where the Lands lie, the Names of the Demandants, Tenants, and Vouchees, who come in by Writs of Summons. And also of the Attornies and Clerks

They must give Receipts for such Writs and Warrants by Way of Duplicate, &c.

Clerks Names, who prosecuted the said Recoveries.

*Fra. North.  
Hugh Wyndham.  
Rob. Atkins.  
Will. Scroggs.*

Pasch. xxx Car. 2.

Regula pro manu Attorn' gen' ad bre-  
via de Ingressu habend'.

Reciting the  
former Rules  
for Filing of  
Writs and War-  
rants of Attor-  
ney relating to  
Recoveries.

**V**icesimo quinto Aprilis, Cum super sci-  
licet Termino Sancti Michaelis ult.  
praterito pro evitacione errorum sapissime con-  
tingen' per negligentiam Attorn' & Clerico-  
rum Curia hic in defectu debite prosecutionis  
& filationis brevium de Ingressu Sum' Seisin'  
& Warrant' Attorn' super quibus coim' Recu-  
perat' existissent permissa Ordinari' fuisset per  
Cur' ex assensu Custod' brevium Prothonota-  
riorum & Clerici Warrant' hujus Cur' quod  
quandocunque Prothonotarii predicti in eorum  
Officiis respective examinarent & signarent  
aliquod Recuperat' per Curiam hic exempli-  
ficat' iidem Prothonotarii viderent quod Bre-  
via & Warrant' predicti debite executi & re-  
tornati & in eorum Prothonotariorum mani-  
bus respective relict' essent cum usual' feodis  
pro assilacione eorund' Jam ex querela Williel-  
mi Jones Militis Attorn' Dom' Regis genera-  
lis Justic' Cur' hic fact' quod quidam Attorn'  
&

Et Clerici ejusdem Cur' brevia sua de Ingressu per ipsum Attorn' generalem sub manu sua signand' ut officio suo pertin' juxta Antiquum Cursum inferre neglexissent in defraudatione ipsius Attorn' general' de feodis suis in ea parte. Ordinatur est quod Prothonotar' predict' de futuro super examinatione Et signat' Recuperar' curam h'eant, quod quodlibet tale breve de ingressu signat' sit per dict' Attorn' generalem Alit. iidem Prothonotarii ad signand' tales exemplificationes totaliter abstineant quousque breve inde ita signat' fuit, Et dict' Attorn' general' desideratur quod ipse brevia predicta pro manu sua habend' sibi deliverat sine dilatione signare voluerit.

Ordered, that when the Prothonotary examines and signs the Recovery, he shall take Care that the Writ of Entry be signed by the Attorney General.  
&c.

Per Cur'.

Fran. North.  
Hugh Wyndham.  
Rob. Atkyns.  
Will. Scroggs.

Trin.



Trin. xxxii Car. 2.

Regula generalis quoad Narrationes  
in ejectione firme in London & in  
Com' Midd'.

In Ejectments  
in Midd. and  
London to tell  
the Tenants  
how to appear.

Motion for  
Judgment a-  
gainst the Ca-  
sual Ejector,  
must be mov'd  
according to  
this Rule.

¶ **V**icesimo primo Junii Ordinari' est quod  
Queren' vel eor' Attorn' sive partes  
quæ deliberari fac' Narrationes in placito  
predicto in dict' Com' Midd. & London, su-  
per tali deliberatione inde denunciabunt te-  
nen' in possessione tenor' in questione respective  
quod ipsi compareant per Attorn' Cur' hic in  
defensione tituli inde initio prox' Termini  
prox' post deliberation' Narr' ill' fact' & ul-  
terius Ordinari' est quod queren' predicti de ce-  
tero nil capient per Motionem in Cur' hic fi-  
end' ad iudicium versus casualem ejectorem  
pro defectu comparencie habend. Nisi hujus-  
modi motio fiat infra unam septimanam prox'  
post primum diem cujuscumque Termini sancti  
Mich. Et cujuscumque Termini Pasche. Et in-  
fra quatuor dies prox' post primum diem  
cujuscumque Termini sancti Hil. & cujuscumque  
Termini sanctæ Trin'.

Per Cur'.

Trin. xxxiii Car. 2.

Generalis regula pro Custagiis super prosecutione ad utlagar'.

**V**icesimo secundo Junii Ordinatur est quod nullus Defendens qui in vel post mensem Sancti Mich. prox' futur' utlagat' fuit, Ac qui comparebit & utlagar' reversari faciat super reversione ill' solvet pro custag' querent' aliquam denarior' Summam exceden' usual' custagia de Exigend' in ista Cur' una cum fine Domino Regi super brevi originali si quis solut' fuit. Et quod omnia ulteriora Custagia respectuant' usque tempus signandi Judicium pro Querent'. Et ulterius Ordinatur est quod quilibet Defendens sic utlagat' & utlagar' illam reversari faciens si Querens superinde non processit infra duos Terminos prox' post notitiam reversionis inde, habebit Custagia per Prothonotarium taxand'.

Upon reverting Outlawry Defendant shall pay nothing exceeding the usual Fees, &c.

Other Charges shall be respected until, &c.

If Plaintiff proceed not in two Terms, Defendant to have Costs, &c.

Per Curiam.

G

Pasch.

Pasch. xxxiv Car. 2.

## Regula generalis de Statuto penali.

How the Postea  
upon Action by  
*Qui tam, &c.*  
and Verdict  
for the King,  
shall be deli-  
vered to the  
Prothonotary.

Note to the  
Clerk of the  
Warrants.

¶ **S**exto Maii Ordinatur est quod quandocun-  
que actio per aliquem qui tam, &c.  
pro Domino Rege super aliquo statuto penali  
prosecuta & triata fuit & ubi veredictum pro  
Domino Rege redditum fuit le postea primo die  
proximi Termini proximi post veredictum predictum  
reddidit per Clericum Assisarum retornatur delibe-  
retur in hanc Curiam ad manus Prothonotarii  
in cuius Officio causa existit & minima parti  
prosequenda & quod iudicium superinde in-  
tretur de Recordo ita quod pars illa penali-  
tatis quae Domino Regi pertinet debite levari  
possit. Et ulterius Ordinatur est quod cum ju-  
diciu intratur fuit de Recordo Nota sive  
Pracipe Recordi illius cum Numero Rotuli  
inde deliberetur per Clericum Judiciorum Cle-  
rico Warrantum bujus Curiae ut summa sive  
finis ille Domino Regi sic pertinens per  
ipsum Clericum Warrantum inter alia in Sum-  
ma dicti Domini Regis debite extrahatur Quod-  
que idem Clericus Warrantum pro receptione ta-  
lis Notae sive Pracipe manum suam apponet  
ad papirum Clerici Judiciorum pro Iudicio  
predictum intrandum.

Per Curiam.

Pasch.



Pasch. xxxiv Car. 2.

Regula pro manu Attorn' general' ad  
Brevia de Ingressu habend'.

**D**Écimo tertio Maii Super querimonia  
Roberti Sawyer Militis Attorn' Do-  
mini Regis generalis Justic' Cur' hic fact' quod  
quamplurima Brevia de Ingressu in le post  
qua per ipsum ut Attorn' general' sub manu  
sua signari debeant per diversos Attorn' &  
Clericos hujus Cur' adhuc prosecuti sunt. Et  
sine manu ipsius Attorn' generalis prius ha-  
bit' assilantur in defraudatione ejusdem At-  
torn' de feod' suis & contra regulam Cur'  
hic in ea parte fact' Ordinatus est quod Pro-  
thonotar' hujus Cur' curam habeant, & qui-  
libet eorum in Officio suo respective videat  
cum examinavit aliquod Recuperat' per Breve  
de Ingressu pred' quod Breve illud per pred'  
Attorn' generalem sub manu sua signetur  
Quodque Prothonotarius nullum tale Breve  
ad assiland' recipiet Nisi per pred' Attorn'  
ita signat' fuit.

Ordered, That  
the Prothono-  
taries take care  
the Writs of  
Entry be sign-  
ed.

Per Curiam.

G 2

Pasch.

Pasch. xxxiv Car. 2.

Concerning the  
bringing Rolls  
into the Office.

Ordered, That  
no Roll be de-  
livered to such  
as make default  
in bringing in  
their Rolls.

Prothonotary's  
Book to be  
signed.

**T**HE Justices of this Court taking Notice, and considering the great Mischiefs which may and do happen, by reason that several Attornies and Clerks of this Court to whom the Prothonotaries of this Court have delivered Rolls, have not in due time brought them back to be filed, whereby they have been in Danger to be lost, and subject to have Judgments unduly entred upon them, to the great Damage of Purchasors, and Scandal of the Court; for Prevention of which Mischiefs it is now ordered, that none of the Prothonotaries of this Court shall hereafter deliver any Roll or Rolls to any such Attorney or Clerk, who appears to be a Defaulter against this Order, in not bringing back his Rolls in due time, until they shall have brought in respectively such Roll or Rolls that they had delivered unto them; and that it may appear in whose Custody all Rolls are, it is farther order'd for the future, every Attorney or Clerk that shall receive any Roll, either Plea or Common from the respective Prothonotaries of this Court, shall sign and set his own Hand to such Prothonotary's Book, from whom they shall receive the same, for the Receipt of such Roll or Rolls, and that no Prothonotary do deliver any Rolls to any other, but

to the proper Hands of some known Attorney or Clerk of their respective Offices. And it is farther ordered, that the said respective Prothonotaries of this Court, do and shall, the first Day of every Term for the future, take an Account of what Rolls are wanting, of the precedent Term in their respective Offices, and shall respectively render an Account thereof to this Court, the second Day of the succeeding Term, that so the Court may take Order for the bringing them in. And it is farther ordered, that every Attorney and Clerk of this Court that shall receive any Roll or Rolls as aforesaid, Plea or Common of this or any other *Easter* Term for the future, shall bring in the same to the Office from whence he received the same, at or before the first Day of the next *Trinity* Term, and that the Rolls received of any *Trinity* Term for the future, shall be brought into such Office, at or before the Feast-Day of *St. Michael the Archangel* next ensuing, the said Term yearly. And that Rolls received of any *Michaelmas* Term, for the future, shall be brought into such Office at or before the sixth Day of *January* next, after the said Term yearly. And that the Rolls received of any *Hillary* Term for the future, shall be brought into such Office, by the Space of four Days before the Feast of *Easter* next, after the said Term yearly. And it is farther ordered by this Court, that the Clerk of the Esloins for the future shall not presume to deliver any Post-Rolls or other Rolls of this Court, to any Attorney or Clerk of this Court, but to the respective

Prothonotaries to give an Account to the Court of the Rolls wanting.

How to be brought in.

Those of *Easter* Term.

Those of *Trinity* Term.

That of *Mich.* Term.

Those of *Hill.* Term.

Post-Rolls to be delivered out to the Prothonotaries, &c.



No Roll to be  
carried into the  
Country.

Penalties if a-  
ny be so car-  
ried.

Prothonotaries, and other Officers of this Court, that have a Right to such Rolls. And if any Attorney or Clerk of this Court shall at any time for the future presume to carry any of the Rolls of this Court into the Country, after they have been delivered to them by the respective Officers, to enter Causes there, contrary to the ancient Rules and Orders of this Court, this Court doth declare, that they will cause all the Penalties to be inflicted on such Persons as shall Act to the contrary; and upon Notice of such Offenders, the Court will farther proceed against them as Contemners of the Rules of this Court.

*Fra. North.*  
*Hugh Wyndham.*  
*Job Charlton.*  
*Creswell Levinz.*

De

De Termino Sancti Michaelis Anno  
Regni Domini Caroli Secundi  
nunc Regis Angliæ, &c. tricesimo  
Sexto.

*Concerning the Admittance of Attor-  
nies of some of the Inns of Court or  
Chancery.*

**W**Hereas divers Complaints have been made to this Court, that manifold Inconveniencies daily happen, for that many Clerks and Attornies of this Court have not been admitted of any of the Inns of Court or Chancery; which, if they were, they might be better known and more readily resorted to, whereby Business of Law might be better managed, which cannot be so easily done if Clerks and Attornies of this Court be permitted to lodge out of the Inns of Court or Chancery, contrary to the ancient Usage, and to the great Damage of the King's People, through Surprizes thence taken and Insisted upon; and to the Detriment and Decay of the Societies of Law: For Prevention of which Inconveniencies, and to establish a Remedy for the future, It is ordered by this Court, that all Clerks and Attornies of this Court already admitted of this Court (not already admitted

Anno 36 C. 2.

Ordered, &c.

That all Clerks  
O<sup>c</sup>. admitted  
of the Court  
should also be  
admitted of  
some Inns of  
Court or  
Chancery if,  
C<sup>c</sup>.

None hereafter  
to be admitted  
Clerk or At-  
torney without  
a Certificate.

Produce Cer-  
tificate.

To be filed in  
the Prothono-  
tary's Office.

admitted in some of the Inns of Court or Inns of Chancery) shall be admitted into some of the Inns of Court (if those Honourable Societies shall please to admit them) or into some of the Inns of Chancery before the End of *Hillary* Term now next ensuing, and take Chambers there (if conveniently it may be done); else that they take Lodgings in convenient Places near the said Inns, and leave Word with the Butler or Porters of such Inn where their Chambers or Habitations are, upon Pain of being put out of the Prothonotary's Book and the Roll of Attornies, except such Persons who are and shall be hereafter House-keepers in *London*, *Westminster*, *Southwark*, or the Suburbs thereof, and the Liberty of the *Tower* of *London* and *St. Katharine's* there, and such who are sworn Attornies of any Courts within the said Cities, Town and Liberties; and that no Person whatsoever shall hereafter be admitted or sworn a Clerk and Attorney of this Court, unless he be first admitted of some of the Inns aforesaid, and bring and produe at the Time of his being admitted or sworn, a Certificate under the Hand of the Treasurer or Principal of the said Inn whereof he is admitted (without paying any thing for the same) testifying his Admission; which Certificate every Clerk so to be admitted shall deliver to the Prothonotary, in whose Office he shall be so admitted, to be by him filed before such Clerk's Name be entred into the Prothonotary's Book, by him kept for that Purpose,



pose; and every Attorney so sworn, such Certificate shall deliver to the Clerk of the Warrants of this Court for the Time being, to be by him filed before such Attorney's Name be entred into the Roll of Attornies of the said Court, remaining with the said Clerk of the Warrants, unto which File of Certificates the Treasurers and Principals may from Time to Time resort, as they shall see Cause. And it is further ordered by this Court, that if Case any Clerk or Attorney of this Court already admitted, or hereafter to be admitted into one of the Societies afore said, do put himself out of the said Society whereof he stands admitted, that then he shall, within one Term after he shall so put himself out of the said Society, admit himself into another of the said Societies. And in case any Clerk or Attorney offend against this Rule, he is to be put out of the Prothonotary's Book or Roll of Attornies, until he give Obedience unto the same; and the Prothonotaries and Secondaries, and all other Officers whom it may concern, are required to give Obedience to this Order, and to see that the same (as to themselves) be duly observed.

And another by the Clerk of the Warrants.

To which Files the Treasurers and Principals may resort.

If one admitted puts himself out of that Society,

He shall within a Year admit himself into another.

Prothonotaries, &c. to see this Rule be duly observed.

*Tho. Jones.  
J. Charlton.  
Creswell Levinz.  
T. Street.*

**De**

De Termino Pasch. Anno Regni Regis Jacobi Secundi primo.

*Concerning Attornies suffering others to practise in their Names.*

Warrant of  
Attorney be  
delivered to  
the proper Of-  
ficer.

Attornies per-  
sonal appear-  
ance in Court  
every Term.

**W**Hereas every Attorney of this Court, as well by his Oath and by the Duty of his Place, as under divers Penalties by several Acts of Parliament and former Orders of this Court, being retained to be Attorney for any Person or Persons, Demandant or Plaintiff, Tenant or Defendant, in any Action or Suit in this Court, is bound to deliver, or cause to be delivered, his Warrant of Attorney to the Officer, or his Deputy, ordained for the Receipt and Entry thereof in this Court. And whereas by a Statute made in the 3d Year of the Reign of our Sovereign Lord King *James*, It is enacted, that no Attorney shall permit any other to follow any Suit in his Name; and that every Attorney so doing, shall be excluded from being an Attorney for ever thereafter. And whereas by Order of this Court every Attorney of this Court ought to appear in Person upon, or before the fourteenth Day of *Michaelmas*-Term, and upon or before the seventh Day of every other Term, upon Pain of ten Shillings the first Default, twenty Shillings for the second  
De-

## the Court of Common Pleas.

91

Default, and putting out of the Roll for the third Default, and that the Appearances should be entred with the Clerk of the Warrants, and that the Names of the Defaulters should be delivered to the Court by the Clerk of the Warrants, or his Deputy, within three Days after the Time required for Appearances. Notwithstanding all which Laws and Orders through the disorderly Practice and Negligence of divers Attornies of this Court, especially of the younger Sort, for Want of their Attendance upon their Office of Attorney here in Court, and permitting others to practise in their Names, and neglect to deliver their Warrants of Attorney to be filed and entred of Record, very many great Inconveniencies, Troubles and Errors have been found and arisen of late Time more than formerly, to the Scandal of the Court, and of the honest Attornies practising therein, and the great Prejudice and Loss of many of his Majesty's good Subjects, as well Plaintiffs as Defendants, Demandants and Tenants in their Suits depending in this Court.

For the Remedy of which Mischiefs and Inconveniencies, and for avoiding of Errors for the Time to come, It is forbidden by the Justices of this Court, upon Pain of Expulsion from this Court, that no Attorney of this Court permit any one to practise in his Name; and it is farther declared and ordered by this Court, that every Attorney of this Court do from henceforth appear in Person within the Times in every

Of Defaulters  
Names to be  
delivered in.

That thro' neglect of former Orders many Inconveniencies have happened.

To the Scandal of the Court,  
&c.

For Remedy  
whereof.

That they appear in Person, &c. in every Term.

And duly file  
all Warrants.

the



## The Rules and Orders of

the Term before limited and expressed, under the Penalties before-mentioned for their Defaults. And that every Attorney of this Court do file his Warrant of Attorney of the Term wherein any Exigent is awarded, Demurrer or Issue joined, or Judgment entered, or which of them shall first happen, upon Pain of forty Shillings for every Time he offendeth, and be attainted by the Examination made by the Justices of this Court; such Warrant to be filed upon, or before the Essoin-Day of every *Trinity*-Term, and within the Space of one and twenty Days next after the End of every other Term. And that no Officer of this Court do make or suffer to be made any Process or Entry in the Name of any Person not sworn an Attorney, nor entered in the Roll of Attornies, or in the Name of any Person put out of the Roll of Attornies, either as a Discontinuer, or for any Misdemeanor, or by Rule of Court after Notice thereof given to such Officer by the Clerk of the Warrants of this Court for the Time being, or his Deputy, and for the better effecting the due Observance of this present Order, It is lastly ordered, that the Clerk of the Warrants of this Court for the Time being, or his Deputy, or the Persons appointed yearly by the Court to give Information to the Court from Time to Time of Breaches of Orders and Miscarriages of Officers, Clerks and Attornies in every *Michaelmas*-Term, or oftner, if required, shall and may present to the Court from Time to Time the  
Name

No Process or Entry to be suffered in the Name of any Person not sworn an Attorney, or put out of the Roll, &c.

After Notice given by the Clerk of the Warrants, &c.

Clerk of the Warrants to give Information of Miscarriages.

Name and Names of every Attorney or Attornies offending against this Order. To the Intent that the Court may examine every Attorney complained against concerning any of the Matters before rehearsed, and upon Attainting any such Attorney upon due Examination had, may inflict such Punishment by Fine, Imprisonment or Expulsion, as the Case shall require, or give Directions for Informations to be exhibited against the most frequent and notorious Offenders for the greater Penalties mentioned in the Statute thereof made and provided.

That they may  
be punished,  
Or.

Tho. Jones.  
J. Charlton.  
Creswell Levinz.  
J. Street.

Do

De Termino Sanctæ Trinitatis Anno Regni Regis Jacobi secundi primo.

*Concerning Sheriffs for making Deputies, and returning of Writs.*

That every Sheriff shall make a Deputy to receive Writs, &c.

Not to make out any Warrants before the Writ duly sued forth.

**I**T is ordered, that every Sheriff shall make and cause to be entred on Record a sufficient Deputy to receive all Manner of Writs and Process under the Pains and Penalties mentioned in the Statute in that Behalf made in the twenty-third Year of the Reign of our late King Henry the Sixth, which Law shall be duly henceforth put in Execution. And it is farther ordered, that the said Sheriffs, or their sufficient Deputies, shall give their personal Attendance in *Westminster-Hall* daily in the Term-time, that so they may, with more Convenience, dispatch those Services which appertain to their Offices respectively. And that no Sheriff, or Sheriff's Deputy, shall deliver or make, or cause or suffer to be delivered, or made, any Warrant or Warrants before the Writ or Writs be duly sued forth and delivered to the said Sheriffs, or their Deputies respectively. Neither shall the said Sheriffs



riffs, nor their Deputies, deliver, or cause  
 or suffer to be delivered any blank War-  
 rants; nor shall any Clerk or Attorney of  
 this Court, receive or procure to be made,  
 any such Warrants, upon Pain of severe  
 Punishment and Fine to be imposed up-  
 on the said Sheriffs and their Deputies,  
 and utter Expulsion of the said Clerks or  
 Attornies respectively offending in the Pre-  
 mises.

**Nor to deliver  
out any black  
Warrants.**

Nor any Clerk or Attorney to procure any such. Upon Pain of severe Punishment, &c.

Tho. Jones.  
J. Charlton.  
Creswell Levinz.  
T. Street.

De Termino Pasch. Anno secundo  
Jacobi secundi Regis.

Concerning Clerks of Assise, and the Lord  
Chief Justice's Associate returning Po-  
stea's by a Time limited.

Inconvenien-  
cies happening  
to Subjects thro'  
the Clerk of  
the Assizes ne-  
glecting to re-  
turn the *Nisi*  
*prius* and *Pos-  
tea's* at the  
Day in Bank.

And also to the  
Justices of the  
Court, &c. in  
deferring their  
Judgments.

THE King's Majesty's Justices of this  
Place, taking Notice that divers of  
his Majesty's good Subjects of this Realm  
of *England*, concerned in Suits depending  
in this Court, have of late Time been very  
much delayed, and put to great Trouble and  
Charge, in Attendance and otherwise, by  
Reason that the Clerks of Assise within  
the respective Circuits of this Kingdom,  
have neglected to make Returns of the  
Records of *Nisi prius* or *Postea's* in this  
Court, at the Days in Bank, as the Law re-  
quires, and the antient Usage hath been;  
and through Default of the said Clerks of  
Assise, the said Justices of this Court cannot  
be legally informed of the Matters acted  
at the Assises; which only can appear  
upon the Return of the *Postea*. And  
therefore are enforced, very often, to de-  
fer their giving of Judgment unto further  
Days, contrary to the Good-liking of the  
said Justices, whereby the People are much  
prejudiced, and thereof have made many  
Complaints

Complaints to this Court. The said Justices being desirous to prevent the like Inconveniencies for the future, and as much as in them lieth to provide a fir Remedy, do order, that every Clerk of Assize of the respective Circuits within this Realm of England, and also the Associate to the Lord Chief Justice of this Court, shall make Returns of all *Postens* upon all Records issuing out of this Court, whereupon any Proceedings have been, by Virtue of any Writ of *Nisi prius*, *Distringas*, *Habeas Corpora Jur*, and shall cause the same to be delivered to the respective Prothonotaries of this Court, upon the *quarto die post*, of the Return of the Writ of *Nisi prius* in Bank; upon Pain of forfeiting the Sum of twenty Pounds, to be estreated into the King's Majesty's Court of *Exchequer*; and that all Pretence of Excuse may be taken away, and due Observation of this Order may be had and made, it is further ordered by the said Justices of this Court, that the respective Clerk of Assize in the respective Circuits, and also the said Associate in *London* and *Middlesex*, at the Trial of every Cause by Record of *Nisi prius* issuing out of this Court, shall take the Fees due unto them respectively, for the Return of every such *Posten*.

Ordered, That the respective Clerks of Assizes, and the Chief Justices Associate, Shall make Returns of all *Postens*, &c.

And cause them to be delivered to the respective Prothonotaries.

Hen. Beddingfield.  
T. Street.  
Ed. Lutwyche.  
John Powell.



De Termino Sanctæ Trinitatis Anno Regni Regis Jacobi secundi secundo.

*Concerning Outlawries.*

Upon Complaint of Sir R. S. Attorney General, of Misdemeanors about reversing Outlawries privately, &c.

**W**Hereas upon Complaint made unto this Court by Sir Robert Sawyer, Kt. his Majesty's Attorney General, that several Defendants for not appearing upon the Exigent, being returned Outlawed, continue in Contempt till after the Death of the Plaintiff, and before such Time as the Executor or Administrator of the Plaintiff could have Knowledge, or before the Will proved, or Letters of Administration granted, such Defendants privately without special Bail, and contrary to several particular Orders of this Court heretofore in that Behalf made, have reversed the said Outlawries to the Prejudice of the King's Interest, though the Defendants, by reason of the Plaintiff's Death, are not less in Contempt than before, nor the Outlawry in the least to abate by reason thereof. Now for the Prevention of the like Mischief, It is ordered, that no Outlawry for the future, after the Death of the Plaintiff in the Action, be reversed without the Defendant's Appearance and putting in special Bail (if the Action so requires) to the Executor or Administrator of the Plaintiff or to

Ordered, That no Outlawry after the Plaintiff's Death be reversed.

to the Husband and Wife, in case where the Wife, whilst a *feme sole*, sued the Defendant to an Outlawry before Marriage; Provided that the Plaintiff's Attorney do, within fourteen Days after Notice to him given of the Defendant's Intention to reverse such Outlawry, deliver the Name or Names of the Executor or Administrator of such Plaintiff or Plaintiffs deceased, to the proper Prothonotary of this Court. And for the better Execution of the Process of Outlawry to be made and issued by and out of this Court, and the Prevention of divers Abuses by Neglect of the same, and for the better regulating of the Reversal of Outlawries, It is ordered, that upon every Writ of Exigent which shall be sued forth of this Court from and after this Term, if a *Superfedeas* be not put in thereunto, at or before the Day of Appearance thereof, that no *Superfedeas* shall by any Sheriff be allowed to any such Writ until the Defendant shall have paid unto the Plaintiff or his Attorney, or left in the Court with one of the Prothonotaries thereof the full and just Costs of Suit therein. And that upon reversing all and every Outlawry the Party Defendant, which reverseth the same, shall before the Reversal thereof, or any *Superfedeas* made thereunto, give special Bail, if the Sum of Money or Damages expressed in the Original, whereupon the Exigent was awarded, shall amount to the Sum of ten Pounds or upward, and pay to the Plaintiff or his Attorney, or leave in the Court for him or them, the

H 2

full

Provided the Plaintiff's Attorney within fourteen Days after Notice of Defendant's Intention to reverse the Outlawry, deliver the Names, &c. to the proper Prothonotary, &c.

Also that if no *Superfedeas* be put in before, &c.

That then the Sheriffs shall not allow a *Superfedeas* thereunto until, &c.

Special Bail where the Sum or Damages in the Original amount to 10 £, or upwards.

Where further  
Costs are to be  
taxed by the  
Prothonotary  
for the Plain-  
tiff's Use before  
any Certificate.

And an At-  
tachment may  
be had against  
them of course  
for Payment of  
the same, &c.

full and just Costs of Suit to the Exigent as  
aforesaid. And where the Plaintiff, by Vi-  
tue of such Outlawry, hath taken an Inqui-  
sition, and extended into the King's Hands  
the Goods, Chattels, Lands or Tenements  
of the Outlawed Person, and returned the  
same into the *Exchequer*, such further just  
and reasonable Costs shall then be taxed by  
the Prothonotary, and likewise paid to the  
Plaintiff or his Attorney, or left in Court  
for him, or them, as the Plaintiff hath been  
at in taking and prosecuting the said Inqui-  
sition, before any Certificate of such Reversal  
shall be made by the Clerk of the Outlaw-  
ries in that Behalf. And for the Prevention  
of the great and common Abuse by Sheriffs  
Officers and Bailiffs for enlarging of Per-  
sons arrested upon *Capias Utlagatum* before  
Judgment without a lawful *Superseas* in  
that Behalf first delivered unto him or them,  
that upon Affidavit thereof made and filed,  
every Person offending therein shall pay the  
Sum of Forty Shillings to the Party grieved,  
who shall have an Attachment of Course a-  
gainst such Sheriff, Officer, Bailiff, or Party  
offending for Payment of the same, and the  
Party or Parties so offending shall likewise  
undergo such other Punishment as by the  
Court shall be thought fit.

Hen. Bedingfield.  
T. Street.  
Ed. Lutwyche.  
Joh. Powell.



De Termino Sancti Hillarii Anno  
Regni Domini Jacobi secundi Re-  
gis secundo & tertio.

**W**Hereas by the ancient Practice of this Court it hath been used, and not only provided, by several Acts of Parliament in that Case made, under great Penalties, but also by several Orders of this Court pursuant thereunto, that every Attorney as well for the Plaintiff as Defendant in any Action, Suit or Plea in this Court depending, should deliver his Warrants of Attorney in every such Action, Suit or Plea wherein he is named Attorney, to be entred and filed on Record with the proper Officer appointed to receive and file the same; notwithstanding which ancient Practice, Statutes and Orders, many Attornies not regarding their Oaths, nor fearing the Penalties in the said Statutes and Orders provided, do neglect to file their Warrants of Attorney, especially upon Issues joined and Process to the Outlawry; for Remedy whereof it is further ordered by the Lord Chief Justice, and other the Justices of this Court, that from henceforth every Plaintiff's Attorney who shall prosecute any Cause to Issue, shall upon the Delivery of the Copy of such Issue receive of the Defendant's

Concerning filing of Warrants of Attorney.

Especially upon Issues joined and Process to the Outlawry.

Ordered, that the Plaintiff's Attorney upon delivering the Copy of the Issue, receive the Fee for filing his Warrant, &c.

## The Rules and Orders of

Attorney the Fee for the filing his Warrant therein, and in case the Defendant's Attorney shall refuse to pay the Plaintiff's Attorney for the same, that the Plaintiff's Attorney shall sign Judgment in like Case, as if the Defendant's Attorney had refused to pay for the Copy of the Issue or Entry of his Plea; which said Plaintiff's Attorney shall file as well the Defendant's as Plaintiff's Warrant of Attorney, before the making up his Record therein; and to the End this Order may be the more effectually observed, it is further ordered, that the Clerk of the Treasury for the Time being shall not for the future sign or seal any Record of *Nisi prius*, unless the same be first signed or stamped by the Clerk of the Warrants or his Deputy, to the End it may thereby appear that the Warrants of Attorney are duly filed; and it is likewise ordered, that no Exigenter shall receive any *Pluries Capias* in order to make an Exigent or Proclamation thereon, before the same be signed or stamped by the said Clerk of the Warrants or his Deputy, to the End it may likewise thereby appear that the Warrants of Attorney therein are duly filed; and for the more easie Dispatch of Business, It is further ordered, that the Clerk of the Warrants, by his Deputy or other Clerk, attend at the Treasury Chamber, where the Records of *Nisi prius* are sealed, three Weeks after every Issuable Term, or so long as Records are sealed, without a Judge's Warrant, there to receive

No Record of  
*Nisi prius* to be  
sealed, unless  
first duly sign'd.

And Clerk of  
the Warrants  
to attend  
where the Re-  
cords of *Nisi  
prius* are sealed.

ceive and take the said Warrants of Attorney.

Hen. Bedingfield.  
T. Street.  
Ed. Lutwyche.  
Job. Powell.

An Order upon Outlawries transcribed into the Court of *Exchequer*.

**W**Here any Outlawry shall be transcribed into this Court, and Process made out thereupon, and afterwards such Outlawry shall be reversed before any Judgment shall be entred for the removing the King's Hands, and the Party Outlawed restored to his Possession, the Prosecutor of such Outlawry shall be paid such Costs as shall be taxed by their Majesties Remembrancer or his Deputy for the Proceedings in this Court.

Upon Reversal of an Outlawry transcribed into the Court de Scaccar.

*Luna xiii Maii 1689.*

It is this Day ordered by the Court that the Rule abovementioned shall be made

The aforesaid Rule made an Order of Court, &c.

H 4

an



## The Rules and Orders of

an Order of this Court, and that the same shall be entred amongst the Orders and Rules of this Court.

*R. Atkins.*

*Ed. Nevill.*

*N. Lechmere.*

*Jo. Furton.*

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De Termino Sanctæ Trinitatis Anno  
primo Gulielmi & Mariæ.

Concerning  
putting in Bail  
with the proper  
Filacer.

**W**Hereas very many Mischiefs and Inconveniencies do arise unto the Plaintiffs in Causes depending in this Court, whose chief Design in bringing their Actions is many times to get good Bail thereunto, and thereby to secure their Debts, It is ordered, this present *Trinity* Term, that the Defendant or their Attornies, who shall hereafter put in any Bail to any *Capiat ad respondend'* or other Filacer's Writ, shall duly have Recourse to the proper Filacer, in whose Office such Bail ought to be entred, and shall with him or his Clerk either come into this Court, or with him or his Clerk attend one of the Judges thereof to take the same; and in Case any Filacer's Bail shall be taken contrary to this Order (except it be taken in the Circuit, which, if delivered

to the proper Filacer by the first Day of the succeeding Term, that so he may have Time to enter it upon Record, shall be as good as such as are taken, as is above ordered) this Court will punish such Contempt; and in order to make the Attorney for the Defendant vigilant in his Client's Business, this Court doth further declare, that where any Filacer's Bail is taken without the proper Filacer, it is as no Bail, and the Plaintiff is at Liberty to proceed on the Sheriff's Bond, as if no such Bail were ever put in. And that before the Defendant shall be admitted to plead to the original Action, he shall pay full Costs to the Plaintiff.

If any Filacer's Bail be taken contrary to this Order, except in the Circuit, &c.  
The Court will punish the Contempt.

And Defendant to pay full Costs before he pleads to the Original.

*Men. Pollexfen.  
Joh. Powell.  
Tho. Robtly.  
P. Veneris.*

**De**

De Termino Sanctæ Trinitatis Anno  
Gulielmi & Mariæ secundo.

Concerning  
Rules for Sheriffs  
to bring in the Bodies  
taken upon Filacer's  
Process.

To be given by  
the Filacer  
from whom  
such Process  
issued, &c.

**T**O prevent the Mischiefs and Inconveniencies that may attend the entring and doing Business in wrong Offices, and the Injury that must necessarily follow to the proper Officers, it is ordered this present *Trinity-Term*, that all Rules for the Sheriff to bring in the Body of a Prisoner taken upon any Process, which hath or shall issue, or which ought to issue out of the Office of any Filacer, be for the Future given by the Filacer from whom such Process issued, or ought to have issued, and by none other whereof the Attornies Clerks, Under-Sheriffs of the several Counties, and all others, whom it may concern, are to take Notice.

*Hen. Pollexfen.  
Joh. Powell.  
Tho. Rokeby.  
P. Ventris.*

De



De Termino Sanctæ Trinitatis Anno secundo Willielmi & Mariæ Regis & Reginæ Angliæ, &c.

**W**Hereas upon Examination it appears to us that divers Persons have taken upon them to take Affidavits in the Country (which have been filed and made use of in this Court) without being authorized thereunto as the Statute directs. We do therefore, for the preventing the like Abuse for the Future, order, that the Secondaries of the several Offices shall not file any Affidavits taken before any Person that is not commissioned to do the same; and to that End Books of the Names of all such Persons as are or shall be lawfully authorized to take Affidavits in the Country, to be made use of in this Court, shall be delivered to and kept by the said Secondaries, and that no Affidavit shall be read in Court before the same be filed.

Concerning Affidavits in the Country, taken by Persons not commissioned.

That the Secondaries file no Affidavit, unless taken by a Commissioner.

No Affidavit to be read before it be filed.

*Hen. Pollexfen.  
John Powell.  
Tho. Rokeby.  
P. Ventris.*

Orders

Orders to be observed by Commissioners, impowered by Commission, in Pursuance of an Act of Parliament for taking Special Bails in the Country, upon Actions and Suits depending, or to be depending in their Majesties Court of Common Pleas at *Westminster*.

That a true Copy of the Writ be on Parchment;

and the Bail-piece thereon ingrossed,

as in this Rule.

A. B. Attorn'  
pro Defend'.

**F**irst, It is ordered, that before any Bail be taken by Virtue of the said Act, a true Copy of the Writ on Parchment to which the Defendant is to put in Bail, shall be brought to the Commissioner before whom such Bail is to be taken; and thereupon the Recognizance or Bail-piece shall be fairly drawn and engrossed on the said Parchment Copy, in this or the like Form, as the Case shall be, *viz.*

*Manuaptores Johannes Denn de Blackbarnesley in Paroch. de Settle in Com. Ebor. Gen. & Richardus Fenn de eadem Gen.*

*Pars ipsa in xx l.*

*Uterque M. in xl.*

*Capt. & cognit. decimo die Martii Anno Dom. 1692. de bene esse coram me A. B. Un' Commissionar'.*

If the Defendant be not present, then the Bail are usually bound in double the Sum in the Writ, otherwise only single.

The Condition of which said Recognizance shall be to this Effect, *viz.*

You (naming the Defendant if present) do acknowledge to owe unto the Plaintiff xx l. And you (naming the Bail) do severally acknowledge to owe unto the same Person the Sum of x l. a-piece, to be levied upon your several Goods and Chattels, Lands and Tenements, upon Condition, that if the Defendant be condemned in the said Action, he shall pay the Condemnation, or render himself a Prisoner to the Fleet for the same; and if he fail so to do, You (naming the Bail) do undertake to do it for him.

The Condition of the Recognizance.

Secondly, It is ordered, That the Affidavit of the due Taking of every such Bail shall be made either before some Judge of the Common Pleas to whom the Bail shall be transmitted; or before some Person who shall have Power to take Affidavits in Matters and Causes depending in the said Court.

Affidavit of the due Taking.

Thirdly, It is ordered, That all Bails taken by any Commissioner within the Distance of forty Miles from the Cities of London and Westminster, shall be transmitted to the Lord Chief Justice of the Court of Common Pleas, or to one of the Justices of the said Court, within ten Days after the Taking thereof; and all Bails taken by any Commissioner above the Distance of forty Miles from the said Cities of London and Westminster shall be transmitted within twenty Days after the Taking thereof, unless all the said Justices shall be

How to be transmitted, and when.



## The Rules and Orders of

be in their Circuits, and then as soon as any one of them shall be returned to *London* out of his Circuit.

Every Com' to  
keep an en-  
tring Book.

Fourthly, Also every Commissioner is to have a Book kept purposely for entring exactly the Names of the Defendant and his Bail, and of the Plaintiff, as it is in the Bail-piece, and the Time of the Taking thereof, and the Name of him by whom such Bail shall be transmitted.

To which  
Plaintiff's At-  
torney may re-  
pair, to accept  
or except a-  
gainst the Bail,  
&c.

Fifthly, It is further ordered, That the Plaintiff's Attorney shall be at Liberty to repair to the Commissioners Book for the Names of the Bail, to the End that they may enquire of the Sufficiency of them; and if they are found insufficient, they may except against them within twenty Days after the said Bill is transmitted, and Notice to the Plaintiff, or his Attorney, of the Taking thereof: And in that Case the Defendant must either put in better Bail, or the Cognizors of such Bail must justify themselves in open Court, either by Affidavit taken before such Commissioner that took the said Bail, or by Oath made in Court, or before one of the Judges of the said Court.

*Geo. Treby.  
Ed. Nevill.  
John Powell.  
Tho. Rokeby.*

Term.

the Court of Common Pleas.

III

Term. Pasch. 5 Gul. & Mar.

**W**Hereas upon Complaint made by the Prothonotaries, and the Clerk of the Treasury of this Court, on Behalf of themselves and the Under-Clerks of the Treasury, that many Attornies and Clerks of this Court neglect to enter their Issues of the Term wherein they are joined, but many Times enter them of subsequent Terms, without any Warrant or Authority for the Doing thereof, to the apparent Damage and Loss of the said Clerks in defrauding them of their just and due Fees. Now for the Prevention thereof, and of many other Inconveniencies and Mischiefs frequently committed, and hapning by such and the like Neglects, It is ordered by the Lord Chief Justice, and other his Brethren, Justices of this Court, that from henceforth all Issues be entred of the Term they are joined, and not of any other subsequent Term whatsoever, and that the Prothonotaries of this Court shall not give any Licence or Authority for the Entry of any such Issues, nor shall the Clerk of the Essoins deliver out any Post-Rolls for the Doing thereof, nor shall the Clerk of the Treasury permit any such Issues to be entred in the Treasury upon any Account whatsoever. And it is further ordered, that

Concerning entering of Issues that are join'd.

Ordered, That all Issues be entred of the Term they are joined.

The Prothonotaries, &c. to give no Licence to enter of a subsequent Term.

## The Rules and Orders of

the respective Prothonotaries of this Court for the Future, shall not sign any Records of *Nisi prius*, until the same or an *Incipitur* thereof be fairly entred upon Record, and the Fees first paid for the Entry thereof.

Geo. Treby.  
Ed. Newill.  
Joh. Powell.  
Thos. Rokeby.

Term. Pasch. 5 Gul. & Mar.

Concerning  
bringing Rolls  
into the Clerk  
of Essoins:

By late Act for  
better Discove-  
ry of Judg-  
ments.

**W**Hereas by an antient Rule of this Court made in the sixth Year of the Reign of King James the First, the Rolls of *Trinity*, *Michaelmas* and *Hillary* Terms are to be brought into the Clerk of the Essoins by the several Officers of this Court, before the Essoin-Day of the Terms following, and the Rolls of *Easter-Term*, on or before the first Day of *Trinity-Term* following, and that Officer which doth not bring in his at the Times aforesaid, is to pay to the Clerk of the Essoins for every Roll wanting xii *d.* and whereas by a late Act of Parliament entitled, *An Act for the better Discovery of Judgments in the Courts at Westminster*, the

Clerk



Clerk of the Effoins is to make an Alphabetical Dogget of all the Judgments entred in this Court of *Michaelmas* and *Hilary* Terms before the last Day of the several Terms following; and of the Judgments of *Easter* and *Trinity* Terms before the last Day of *Michaelmas* Term following, under the Penalty of one hundred Pounds. And whereas by reason of the late bringing in of the Rolls of late Years contrary to the said Rule of Court, the Clerk of the Effoins hath not Time sufficient to dogget the Judgments by the Time limited in the said Act of Parliament, It is therefore hereby ordered by this Court, that the several and respective Officers of this Court shall deliver in all their Rolls of *Trinity*, *Michaelmas* and *Hilary* Terms to the Clerk of the Effoins before the Effoin-Day of the several Terms following, and their Rolls of *Easter* Term on or before the first Day of *Trinity* Term following; and that that Officer, which shall not bring or send in all his Rolls of the said several Terms at the Times aforesaid, shall pay to the Clerk of the Effoins for every Roll brought in after, xiiid. according to the ancient Rule of this Court: And whereas the Plea-Rolls of this Court have not of late Years been brought to the Clerk of the Effoins to be bound up at the Time they ought to be; It is hereby likewise ordered, that the Plea-Rolls of every Term hereafter shall be brought in to the Clerk of the Effoins within three Weeks after the End of the Term following; and in Default thereof there shall be likewise

An Alphabetical Dogget to be made under Penalty of 100 Pounds.

But when Rolls are brought late in, the Clerk hath not time to make such Doggets.

Ordered, How the Officer shall deliver the Rolls to the Clerk of the Effoins.

And how the Plea-Rolls of every Term shall be brought in to the said Clerk.

paid to the Clerk of the Effoins for every  
Plea-Roll brought in after, 12 d.

Geo. Treby. } } Joh. Powell.

Ed. Nevill. } } Tho. Rokeby.

Rules to be observed in the Court  
of *Common Pleas*, in the Pro-  
ceedings upon Declarations deli-  
vered to Prisoners in Custody in  
Country Gaols.

*bu 142.*

Declaration  
when to be  
delivered.

1st, **T**HAT no Copy of any Declaration  
shall be delivered to a Prisoner in  
Custody until after the Process, upon which  
such Prisoner shall be taken or charged in  
Custody, be returnable.

Affidavit of the  
Delivery before  
Rule to appear  
and plead.

2dly, That no Rule shall be given for the  
Defendant in Custody, to appear and plead  
to any Declaration against him, until an  
Affidavit be filed with the proper Secondary  
of the Delivery of the Copy of such De-  
claration, and of the Time when, and the  
Person to whom the same Copy was deli-  
vered; and a Copy of the said Affidavit  
shall be produced to the Prothonotary be-  
fore Judgment signed, together with a Cer-  
tificate from the proper Officer, that no  
Appearance is entred with him.

Entry of Ap-  
pearance, &c.  
upon Delivery  
of Declaration  
before *Mensem*  
*Pascha*, &c.

3dly, If a Copy of the Declaration be  
delivered, before *Mensem Pascha* or *Crafti-*  
*num Animarum*, and Affidavit thereof made  
and filed, and the Defendant doth not enter  
his Appearance with the proper Officer,  
within

within ten Days after *Easter* or *Michaelmas* Term respectively, Judgment may be entred against him upon the Certificate, as aforesaid, if Rules have been given; but if he doth not enter his Appearance, as aforesaid, before the End of ten Days after the Term, he shall Imparl until the next Term, unless the Action be in *London* or *Middlesex*, and the Defendant be in Prison within forty Miles of the City of *London* and *Westminster*; then though he doth appear before the Expiration of ten Days after the End of the Term, he shall plead two Days before the Essoin-Day of the next Term, and in Default thereof Rules having been given, Judgment may be entred against him, as aforesaid.

Judgment for want of a Plea,

4thly, If a Copy of the Declaration be delivered on, or after *Mensem Pascha* in *Easter* Term, or *Craftinum Animarum* in *Michaelmas* Term, or in *Hillary* or *Trinity* Term, and the Plaintiff thereupon shall give Rules to appear and plead, if the Defendant enter his Appearance two Days preceding the Essoin-Day of the next Term, he shall Imparl until the said next Term: But if he doth not appear within that Time, Judgment may be entred against him, as aforesaid.

Declaration delivered on or after *Mensem Pascha*, &c.

5thly, If the Writ be returnable in one Term, and a Copy of the Declaration be delivered before the Essoin-Day of the next Term, the Plaintiff in such next Term may give Rules to appear and plead; and if the Defendant doth not enter his Appearance, and plead by that time that the Rules are

Writ returnable one Term, and Declaration delivered before the Essoin-Day of the next.



## The Rules and Orders of

out, Judgment may be entred against him, as  
aforesaid.

Declaration to  
be entred or  
left in the Of-  
fice and when.

6thly, If the Declaration be not entred  
or left in the Office before the End of the  
next Term, after the Writ or Proceſs (by  
which the Priſoner ſhall be taken or charged  
in Cuſtody) be returnable, and an Af-  
ſidavit made and filed in Manner aforeſaid,  
before the End of twenty Days after ſuch  
Term (*Eaſter Term* excepted, and within  
ten Days after *Eaſter Term*) the Priſoner  
ſhall be diſcharged upon the Entering of his  
Appearance with the proper Officer, by  
Writ of *Superſedeas* made by him, according  
to the ancient Practice of this Court.

Attachment a-  
gainſt Gaoler  
or Keeper con-  
cealing the De-  
claration.

7thly, If any Gaoler or Keeper of Priſon,  
having received a Copy of a Declaration a-  
gainſt any Priſoner in his Cuſtody, ſhall ſup-  
preſs the ſame, or not deliver it forthwith  
to ſuch Priſoner, an Attachment ſhall be iſſued  
againſt him.

Geo. Treby  
Ed. Nevill.  
Joh. Powell.  
Tho. Rokeby,

Termino

Termino Pasch. Anno sexto Gu-  
lielmi & Mariæ Regis & Regina  
Angliæ, &c.

**F**Orasmuch as Complaint hath been  
made unto this Court by the Secon-  
daries of the Compters in *London* and the  
Under-Sheriff of *Middlesex*, that many Fines  
have been and daily are passed through  
the several Offices of this Court, wherein  
Attornies are imploy'd, or their Names used  
as Attornies for the Conusees of the same,  
who neither do know nor are acquainted  
with the Parties in the said Fines mentioned,  
nor cannot or will not give any Account  
where the Lands and Tenements therein  
contained do lie, or of the Names of the  
Tenants in Possession thereof; and others  
are passed by Attornies of the Court of  
King's Bench and Solicitors in the Names  
of some, who, although they be Attornies  
of this Court, live many Miles distant  
from *London*, and therefore cannot be  
enquired of touching the Post-Fines there-  
upon growing due unto their Majesties to  
be collected and Received by the said  
Secondaries and Under-Sheriff, by Means  
whereof in regard that many Purchases

*Lmd. & Mid.*

Upon Com-  
plaint of the  
Secondaries of  
the Compters  
in *Lmd.* and  
Under-Sheriff  
of *Mid.* of Fines  
pass'd by At-  
tornies, &c.  
who either can-  
not or will not  
give a true Ac-  
count of the  
Lands and of  
the Tenants,  
&c.

So that 'tis  
very difficult  
to find out the  
Lands, &c.  
and to collect  
the Post-Fines  
due to the  
Crown.

Ordered, That  
no Writ of Co-  
venant upon  
any Fine of  
Lands, &c.  
within the City  
and Liberties  
of London or  
County of Mid.

Tho' join'd  
with Land, &c.  
in any other  
City or County.

Shall pass the  
Return-Office  
until a Note  
of all Particu-  
lars be deliver-  
ed.

are made in other Persons Names in Trust for the real Owners of the Estates, which pass by the said Fines, and of sometimes of Rents issuing out of Houses, it is very difficult, if not impossible for the said Secondaries and Under-Sheriff to find out the Messuages, Lands and Tenements whereupon the said Post-Fines are to be levied, or out of what Lands and Tenements such Rents do issue, or the Persons who of Right ought to pay the same; so that many of them are wholly lost, For Remedy thereof for the future, It is ordered by this Court, that from henceforth no Writ or Writs of Covenant upon any Fine or Fines whatsoever of any Messuages, Lands or Tenements, or of Rents issuing out of them, lying or being, or which shall therein be mentioned to lie or be within the City of London and the Liberties thereof, or within the said County of Middlesex, or either of them, whether the same shall be of Messuages, Lands or Tenements in the said City and County, or either of them singly, or joined, with any other Messuages, Lands or Tenements in any other City or County, shall be returned by the Clerk for the Return of the said Writs of Covenant of this Court for the Time being, until the Attornies, who shall prosecute such Fines, shall give a Note or Notes in Writing to the said Clerk, for the Return of the said Writs of Covenant for this Court or his Deputy, as well of the Person's Name and Place of Habi-



Habitation, who is really and properly Attorney to the said Fine or Fines, as of their own Names and Places of Habitation, as also of the particular Street, Lane or Place where such Messuages, Lands or Tenements, or Rents issuing out of the same are situate; and of the Person, or Persons Name or Names who is, or are in Possession of such Messuages, Lands or Tenements, or who is, or are to pay the Post-Fine or Post-Fines thereupon due unto their Majesties. And it is farther ordered, that the present Clerk for the Return of the said Writs of Covenant of this Court, or his Deputy, or the Clerk for the Return of the said Writs of Covenant of this Court for the Time being, his Deputy or Clerk; and all Attornies of this Court, and others concerned therein, shall and do take Notice from time to time of the due Execution of this Order, and that the said present Clerk for the Return of the said Writs of Covenant of this Court, or his Deputy, or the Clerk for the Return of the said Writs of Covenant of this Court, for the Time being, his Deputy or Clerk, shall carefully keep such Notes or Writings on a File, and do, upon Application unto him or them made by the said Secondaries and Under-Sheriff of *Middlesex*, or any of them, give unto them or any of them requesting the same from time to time, or suffer them to take an Accompt in Writing thereof, according to the Accompts by

And of the Tenants in Possession, and who is to pay the Post-Fine thereon.

Clerk of the Return-Office and his Deputy to see this Order duly executed.

And carefully to keep the Notes.

And to let the  
Secondaries,  
Under-Sheriff  
have a true  
Account there-  
of.

This Order  
made a stand-  
ing Rule of  
Court.

him or them taken in Pursuance of this Order; and that this Order may be made the more Publick, It is further ordered, that the same be made a standing Rule of this Court, and that Copies hereof be affixed and set up in the several Offices belonging to this Court, that all Persons therein concerned may be informed, and take Notice thereof.

*Per Cur'.*

**Trin.**

Trin. ix Will. Regis.

*Rule to prevent Persons suing out Writs of Privilege, &c. who are not Attornies.*

**W**Hereas notwithstanding the several Orders of this Court made for Prevention of Persons suing out Writs of Privilege, *proprium Capias*, and Attachments at their own Suits, as Attornies of this Court, who never were sworn, or had their Names entred on the Roll of Attornies of this Court, or have discontinued, or had their Names put out of the Roll of Attornies remaining with the Clerk of the Warrants of this Court, and yet have prosecuted such Writs, so as to free themselves from Arrests, or to force Bail where none ought to be given, which Rules and Orders have hitherto proved ineffectual. Therefore for the better preventing the said Abuses, it is ordered, That no Attorney shall for the Future sue forth, or cause to be sued forth in his own Name, or at his own Suit, any Writ of Privilege, Attachment, *prop. Capias*, or other Process; and that no Filazer or Exigenter, Clerk, or other Officer or Minister of this Court, do sign or allow any Writ of Privilege, Attachment, *prop. Capias*, or other such Process; and that the Green-Wax,



Wax, or Keeper of the Seal of this Court, or his Deputy, do not hereafter seal any Writ of Privilege, Attachment, *prop. Capias*, or other such Process, unless the same be first stamped or signed by the Clerk of the Warrants of this Court, or his Deputy, for which no Fee is to be paid, to the Intent to shew that such Person is an Attorney of this Court duly entred and continued on the said Roll of Attornies; and that every such Writ or Process being not stamped or signed, as aforesaid, by the said Clerk of the Warrants, or his Deputy, shall be of no Force to free such Person from Arrests, or to require Bail, or to give any Privilege whatsoever, as an Attorney of this Court.

*Per Cur<sup>a</sup>.*

*Pasch.*

Pasch. xiii W. 3.

**O**rdinat' est quod omne Breve de Certiorari à Cur' hic Emanan' & Curie Placit' Episc' Elien' de futuro dirigend' antequam sigill' fuerit per unu' Justiciarior' hujus Cur' cum verbis Insula Elien' indors' ejusdem brevis signabitur subter nomen Justic' dict'. Et si aliquod breve de Certiorari emanabit absque tali indorsamento manu propria ejusdem Justic' superscripto non Allocabitur per Judicem Cur' Elien' predict',

How Writs of Certiorari, directed to the Court of Pleas of the Bishop of Ely shall be signed by a Judge of this Court.

Per Cur'.

Ed. Nevill.  
John Powell.  
Jo. Blencow.

Term.

Term. Mich. Ann. 4.

**W**Hereas divers Complaints have been made to us, that many Attornies and Clerks of this Court, are not admitted of any of the Inns of Court or Chancery, according to antient Course and Usage by which they might be resorted to, and Busi-ness of Law better managed to the greater Ease of the Queen's Subjects, the Neglect whereof is to the great Detriment and Decay of the Societies of the Law, and divers Inconveniencies do thereupon daily happen, for Prevention whereof, and to establish a Remedy for the Future,

Ordered by the Court, that Attornies, &c. shall cause themselves to be admitted of some Inns of Court, &c. and take Chambers, in, &c. or else Lodgings in some convenient Place near, except, &c.

It is ordered by this Court, that all Attornies and Clerks of this Court not already admitted into one of the Inns of Court or Chancery, shall procure themselves to be admitted into one of the said Inns of Court (if those Honourable Societies shall please to admit them) or into one of the Inns of Chancery before the End of *Trinity*-Term now next ensuing, and take Chambers there (if conveniently they may be had) else that they take Lodgings in some convenient Place near the said Inns, and leave Notice in Writing with the Butler or Porter of such Inn whereof they are admitted, where their Lodgings or Habitations are, except such Persons who are, or shall be hereafter Inhabitant



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bitants or House-keepers in *London, Westminster, Southwark*, or the Suburbs thereof, and Liberty of the *Tower of London* and *St. Katharine* there, and such who are sworn Attornies of any Courts within the said Cities, Town and Liberties.

And it is further hereby ordered, that for the Future, no Person whatsoever shall be sworn an Attorney, or admitted or entred a Clerk of this Court (except the Persons before excepted) unless first admitted of one of the Inns aforesaid, and bring and produce at the Time of his being sworn an Attorney, or admitted or entred a Clerk, as aforesaid, a Certificate under the Hand of the Treasurer or Principal of the Inn whereof he is admitted, which they are respectively to give, without being paid any Thing for the same, testifying such his Admission; which Certificate every Attorney so sworn shall deliver to the Clerk of the Warrants of this Court; and every Clerk of this Court so admitted or entred, shall deliver to the respective Prothonotary, of whose Office he shall be admitted, to be by the said respective Officers filed, before the Name of such Attorney, shall be entred into the Roll of Attornies, or such Clerk admitted or entred, as aforesaid; unto which File of Certificates the respective Treasurers and Principals of the said Inns of Court and Chancery shall or may from Time to Time resort, as they shall see Cause, without paying any Thing for the same.

That none shall be sworn an Attorney, &c. unless so admitted, and produces a Certificate to be filed. To which the Treasurers and Principals may resort.

And

None to put himself out of the first Society until admitted in some other.

And it is further ordered, that no Attorney already sworn, or Clerk already admitted or entred, or which hereafter shall be sworn, admitted or entred, and which are or shall be admitted into any of the Societies aforesaid, shall put himself out of the Society whereof he is, or shall be admitted, until he be admitted of some other of the said Societies, and deliver to the Treasurer or Principal of such Society whereof he was first a Member, a Certificate in Writing, signed by such Treasurer or Principal, testifying his being admitted of such other Society, except such Person shall totally leave off the Practice of the Law, as an Attorney or Clerk in this Court.

And whereas by the Usage, Custom or Orders of the Inns of Chancery, the Members thereof were obliged to, and did come into Commons and continue therein, according to the Orders of such Society, to their great Ease in transacting their Causes one with another, and much Benefit to their Clients; but of late most or a great Number of the said Attornies and Clerks have neglected to come into Commons, or continue therein according to the respective Orders of the said Inns of Chancery, to the great Decay and Detriment of those Societies.

Also ordered, that the Attornies, &c. shall come into and continue in Commons, &c. under a Penalty till Obedience.

It is further ordered, that the Attornies and Clerks, which now are or shall be admitted into any of the Inns of Chancery, do, and shall come into and continue in Commons for the Time or Times, as by the Orders of such Society, whereof they are or shall be admitted, is, are, or shall be ordered,

ordered, limited or appointed for them so to do, and in case any Attorney or Clerk aforesaid shall offend against this Rule, or any Part thereof, such Attorney shall be put out of the Roll of Attornies, and such Clerk so offending, shall be discharged and displaced from such Office to which he belongs, until he or they give Obedience to this Order; and the respective Prothonotaries and Clerk of the Warrants of this Court, and all other Officers whom it may concern, are hereby required to give Obedience to this Order, and see that the same, as to themselves, be duly observed.

And for the more effectual and better putting in Execution this Order, and that it may procure the Good hereby designed and intended,

It is hereby further ordered, that the respective Treasurers and Principals of the Inns of Chancery, and the antient Rulers and Governors of the same, do, and shall from Time to Time, by such Ways and Means as they shall see fit and convenient, procure and get a List of the Names of such Attornies and Clerks of this Court, who are not admitted of any of the said Inns of Court or Chancery, which List the said Treasurers and Principals, antient Rulers and Governors shall yearly in *Michaelmas*-Term, deliver unto the Right Honourable the Lord Chief Justice of this Court for the Time being, to the Intent the Offenders against this Order may be compelled to give Obedience to the same.

The Treasurers, &c. to give a List of such as are not so admitted.

And



As also a List  
of such as rude-  
ly practice, to  
the End they  
may be pro-  
ceeded against,  
&c.

And it is also hereby further ordered, that the said Treasurers, Principals, Antients, Rulers and Governors, in like Manner procure and get a List of the Names of such Persons as take upon them to practise as Attornies or Clerks in this Court, who are neither sworn Attornies, or admitted or entred Clerks in any of the Offices of this Court, which List is to be delivered as above, to the Intent that such Offenders may be proceeded against in such Manner as shall be thought fit.

Tho. Trevor.  
Jo. Blencow.  
R. Tracy.

De

De Termino Sancti Hill. Anno nōno  
Annæ Reginae.

*In Case of Trial at Bar the Plaintiff's At-  
torney shall give timely Notice to the  
Court of the certain Days such Trials  
are to come on.*

**W**Hereas Rules for Trials at the Bar of  
this Court are usually granted one  
or more Terms before such Trials are ap-  
pointed to be had; and that the Writs of  
*Habeas Corpora* for Summoning the Juries  
for such Trials, are made out upon *Venires*  
made out returnable in the preceding Term.  
So that the Attornies for Plaintiffs in such  
Trials, have always Opportunities of giving  
timely Notice to this Court of the certain  
Days when such Trials are to come on.  
And forasmuch as their neglecting to give  
such Notice is found to be to the Prejudice  
of other Suiters in this Court. Now for the  
preventing of any Prejudice or Inconvenience  
that may happen from such Negligence, It  
is ordered by this Court, that the Attorney  
for the Plaintiff in every Cause, which in such  
Case shall come to be tried at the Bar of  
this Court, shall before the Effoin-Day of  
the Term, in which such Cause shall be ap-  
pointed to be tried, give Notice to the chief-  
Prothonotary of this Court or his Secondary,  
of the Day on which such Cause is to be  
K  
tried,

tried, that the same (as is usual) may be put down in the Court-Book provided for that Purpose. And in Case such Attornies shall neglect so to do, that then without Motion, and the special Direction of this Court, such Causes shall not be tried that Term, any Precedent Rule or Practice to the contrary notwithstanding.

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De Termino Sancti Hill. Anno nono  
Annæ Reginae.

*For Settling the Time when a Nonpros  
may be signed for want of a Decla-  
ration.*

**W**Hereas divers Disputes and Controversies have arisen in this Court touching *Nonproffes*, signed for want of Declarations, in what Time after the Return of the Writ the same may be signed, or what Time the Plaintiff has, after the Return thereof, to deliver his Declaration, or of leaving the same in the Office before he shall be *nonproff* for Want thereof. Now for the avoiding all such Disputes, and for reducing the Practice herein to a Certainty, It is ordered by this Court, that upon all Procces returnable the first or any other Re-  
turn



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turn in any Term, the Plaintiff shall have Liberty to the End of the next ensuing Term, to deliver his Declaration to the Defendant's Attorney, or of leaving the same in the Office, and the Defendant's Attorney having entred his Appearance with the proper Officer, as of that Term in which the Process is returnable; and at the End of the ensuing Term, or in four Days after the End thereof, having given a Rule to declare in the proper Office, and having called on the Plaintiff's Attorney or Clerk in Court (if he can be found) the Defendant any Time in the Vacation of such ensuing Term, after the Rule for declaring is out, may sign his *Non-pros* for want of a Declaration, and not afterwards, and the Plaintiff shall not without the Leave of the Court, have any longer Time to declare in than as abovesaid, other than the Time to be limited by the Defendant's Rule, any Rule or Practice to the contrary hereof notwithstanding.

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K 2

Paſch.

Pasch. ix Annæ Regina.

*For preventing the Mischiefs arising  
from Rasures made in the Days and  
Years of the Captions of Fines.*

**W**Hereas by an Act made in the three and twentieth Year of the Reign of Queen Elizabeth, It was amongst other Things enacted, That every Person, who should at any Time hereafter take the Knowledge of any Fine, and should certify the same, that such Person should with the Certificate thereof certify also the Day and Year when the same was knowledged; and that no Person, who should take any such Knowledge of any Fine should be bounden, or by any Means enforced to certify any such Knowledge, except it were within one Year next after the said Knowledge taken. And that no Clerk or Officer should receive any Writ of Covenant, whereupon any Fine was thereafter to pass, unless the Day of the Knowledge of such Fine should appear in or by such Certificate upon Pain of forfeiting five Pounds. And whereas, contrary to the Intent and Meaning of the said Statute, the Days and Years of the Captions of several Fines have been rased and altered after the same have been acknowledged, and other Days and Years inserted, and which sometimes have appeared to be after the Deaths of

of the Conufors in fuch Fines, by Reason whereof feveral Difputes have arifen, great Delays have been had in the paffing fuch Fines, and that feveral Fines have been vacated thereupon. Now for the preventing the like Mifchiefs and Inconveniencies for the Time to come, It is ordered by the Juftices of this Court, that for the future, no Fine whatfoever taken and acknowledged before any Commissioners, by Virtue or Colour of any Special *Dedimus potestatem* to them directed, do pafs the Queen's Silver-Office, and the Queen's Silver of fuch Fine, be recorded, unlefs Oath be made before the Lord Chief Juftice, or fome other Juftice of this Court, of the due Execution of the faid Fine, and alfo of the Day and Year when each Conufor fees executed the fame, where a Rafure in the Day or Year fhall appear in the Caption thereof; and that no Fine fo acknowledged before fuch Commissioners in Cafe of fuch Rafure, be received and entred by the Clerk of the Queen's Silver of this Court, before there be an *Allocatur* reciting the Day and Year of each particular Conufor's Acknowledgment, under the Hand of the faid Lord Chief Juftice, or fome other Juftice of this Court for the paffing of the faid Fine firft had and obtained. And it is further ordered, that no Fine whatfoever taken and acknowledged before the faid Lord Chief Juftice, or any Judge of Affize, or Sergeant at Law, if the Date of the Caption of fuch Fine fhall appear to have been rafed, do for the future pafs the Queen's Silver-Office, and the Queen's Silver of fuch



Fine, be recorded by the said Clerk of the Queen's Silver, before there be an Order under the Hand of the said Lord Chief Justice, or some other Justice of this Court, for his passing and entring such Fine first had and obtained. And it is likewise order'd, that after any Fine whatsoever shall have passed the said Queen's Silver-Office, and the Queen's Silver of such Fine, be recorded, that neither the Precipe or Caption of any such Fine or Writ of *Dedimus potestatem*, or Writ of Covenant, by which any such Fine be passed, shall be rased or altered before there be an Order under the Hand of the said Lord Chief Justice, or some other Justice of this Court, for the doing thereof, and for the amending of all Entries made from such Writ or Writs first had and obtained.

*Per Cur'.*

*T. Trevor.*

*J. Blencowe.*

*R. Tracy.*

*R. Dormer.*

De

De Termino Sancti Hill. Anno nono  
Annæ Reginae.

*For Settling the Practice in Relation  
to Prosecutions on Bail-Bonds.*

**W**Hereas several Motions have been made in this Court against the undue Prosecutions had upon Bail-Bonds, in having the same put in Suit before the Defendants could have a reasonable Time of putting in Bail in the Original Actions; and the Time for putting the said Bonds in Suit not appearing to be fixt and limited, whereby the Practice of the Court in that Case is become doubtful and uncertain. Now for the Information of all Practisers touching the same, this Court doth think fit, and so order, that no Bail-Bond taken in *London* or *Middlesex*, and by Virtue of any Process issuing out of this Court, shall be put in Suit till after four Days exclusive of the Appearance-Day of every Return, upon which the said Process shall be returnable, and that no Bail-Bond taken in any other City or County, by Virtue of such Process, shall be put in Suit till after Eight Days exclusive of the Appearance-Day of any such Return, upon Pain of having all

all Proceedings made upon such Bail-Bonds to the contrary thereof, upon Motion made to this Court for that Purpose, set aside with Costs.

De Termino Sanctæ Trinitatis Anno  
secundo Georgii Regis.

*In Com. Banco.* **W**HEREAS in divers Actions and Suits commenced in this Court, the Plaintiff many Times in Pleading concludes *ad Patriam*, and the Defendant not being obliged to join Issue, nor demur till a four Days Rule is expired, Plaintiffs are thereby greatly delayed in trying their Causes; for the Prevention of which for the future it is ordered: That in all Cases where the Plaintiff concludes *ad patriam*, the Defendant's Attorney or Clerk in Court, shall be bound to accept of Notice of Trial upon the Back of such Pleading, whether the same be delivered to the Defendant's Attorney or Agent, or left in the proper Office, where the same may be left by the Course of the Court. And such Notice of Trial so given or left as aforesaid, shall be as good and effectual as if Issue had been actually joined.

P. King.

Jo. Blencowe,

R. Tracy,

Robert Dormer,

De



De Termino Sancti Mich. Anno  
quinto Georgii Regis.

**I**T is ordered this Term by the Court,  
that no Countermand of Trial at the  
Assizes shall be good, unless Notice be gi-  
ven two Days before the Commission-  
Day.

*N. B.* No Countermand to be given on  
Sunday.

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Hill, sexto Georgii Regis.

*In Com. Banco.* **W**Hereas by a Rule of this  
Court made in *Trinity-*  
Term, in the second Year of the Reign of  
his Majesty King *George*, it was ordered, That  
in all Cases where the Plaintiff concludes *ad*  
*Patriam*, the Defendant's Attorney or Clerk  
in Court, shall be bound to accept of Notice  
of Trial upon the Back of the Pleading,  
whether the same be delivered to the Defen-  
dant's Attorney or Agent, or left in the pro-  
per Office, where the same may be left by  
the Course of the Court: And such Notice  
of Trial so given, or left as aforesaid, shall  
be as good and effectual as if Issue had been  
actually joined. And whereas it appears,  
That notwithstanding the said Rule, the  
Plaintiffs in divers Actions and Suits com-  
menced

menced in this Court are delayed, for that the Defendants Attornies are not obliged to take the like Notice of executing Writs of Enquiry: It is therefore hereby ordered, That in every Cause where the Plaintiff concludes *ad Patriam*, and giveth Notice of Trial on the Back of his Pleading, pursuant to the said Rule; if the Defendant doth not join Issue on such Pleading before the Rule be out, that in every such Case after Judgment obtained, the Defendant's Attorney shall be obliged to accept Notice of executing a Writ of Enquiry, from the Time that Notice of Trial was given on the Back of such Pleading as abovesaid.

*P. King.*

*Jo. Blencowe.*

*R. Tracy.*

*Robert Dormer.*

### Hill. sexto Georgii Regis.

*In Com. Banco.* **W**Hereas there have been great Neglects in entering Appearances for Defendants, and in entering Special Bail upon Record; it is hereby ordered for preventing the same: That all Rules and Orders of this Court heretofore made, relating to the Premises, shall from henceforth be punctually observed, and the Pains and Penalties therein contained shall be inflicted on Offenders: And for the farther enforcing the said good Rules and Orders already

ready made, it is hereby farther ordered, That from and after the last Day of this present *Hillary*-Term, every Attorney of this Court accepting or subscribing any Warrants to appear for any Defendant, to any Writ issuing out of this Court, shall within four Days after the Appearance-Day, to the Return of every such Writ in *London* and *Middlesex*, and within eight Days after the Appearance-Day in every Writ, in any other County, enter the Appearance of such Defendant with the proper Officer: And if any Attorney accepting any Warrant to appear, or subscribing any Process or Warrant to appear, do not enter such Appearance within the Time aforesaid, he shall for such Offence be liable to an Attachment, and shall not be discharged therefrom till he hath paid full Costs to the Plaintiff, for the Prosecution on such Attachment; and the Defendant, when he appears, shall be compelled to plead, as of the Time when he should have pleaded, if his Appearance had been duly entred. And it is likewise further ordered, That all Bails taken by Commissioners, pursuant to the Act of Parliament for taking Special Bails in the Country, shall be transmitted to the Lord Chief Justice, or to one of the Justices of this Court, *viz.* every Bail taken within forty Miles of *London*, within ten Days after the Caption thereof, and every Bail taken above forty Miles from *London*, within twenty Days after the Caption thereof; unless all the Justices shall be in their Circuits; and then as soon as any one of them shall be returned to *London* out of his Circuit, being the Time  
pre-



## The Rules and Orders of

prescribed by the Orders of this Court, to be observed by the Commissioners; and after such Transmission, shall be forthwith delivered to, and filed with the proper Officer, to be entred upon a Record, or otherwise it shall be as no Bail; and the Plaintiff is at Liberty to proceed on the Sheriff's Bond, as if no such Bail were ever put in; and the Defendant, in Case he be admissable to plead to the Original Action, shall not be admitted so to do, unless he first pay the full Costs to the Plaintiff for the Prosecution on the Bail-Bond; and plead as of the Time when the Bail should have been duly entred.

*P. King.*

*Jo. Blencowe.*

*R. Tracy.*

*Robert Dormer.*

De Termino Sancti Hillarii Anno  
Octavo Georgii Regis.

*Sheriffs, &c. to make due Return of  
any Process, &c.*

**W** Hereas great Delays have been occasioned to the Suitors of this Court, by Reason that Sheriffs, Under-Sheriffs, and their Deputies, Bailiffs, Coroners, Bailiffs of Liberties, and other Officers and Persons having Return of Process issuing out of this Court,

Court, do not in due Time make a Return of such Process, or of the Warrant or Precept thereupon, by which Means great Expences are occasioned, and Plaintiffs delayed in their Recovery of their just Debts; for the Prevention therefore of the like Delays for the Future, it is ordered by this Court, That from and after the last Day of this present *Hillary-Term*, that if any Sheriff, Under-Sheriff, or any of the Officers or Persons above-named, or any Officer or Person, having the Return of any Process issuing out of this Court, or of any Precept or Warrant thereupon, shall neglect or refuse to return the same within six Days next after Service of a Rule of this Court for that Purpose, such Sheriff, Under-Sheriff, and every other of the above-named Officers or Persons shall be liable to pay the Costs occasioned by such Neglect, to be taxed, any Rule or Order of this Court to the contrary notwithstanding.

In six Days after Service of a Rule of Court.

If not, to pay Costs.

*P. King.*  
*Jo. Blencowe.*  
*R. Tracy.*  
*Robert Dormer.*

Notice is hereby given to the Attornies and Practisers in the Court of Common Pleas at *Westminster*, that the Right Honourable Sir *Peter King*, Knt. Lord Chief Justice of the same Court, hath ordered, that no *Recipiatus* shall be allowed to be entred

The *Recipiatus* be entred, unless the Record of *Nisi prius* be brought into Court before the Sittings.

## The Rules and Orders of

entred for the Sitzings of *Nisi prius* after every Term, unless the Records of *Nisi prius* and Writs be made up and brought into Court on or before the Days and Sitzings respectively.

Robert Maidstone, Dep. Cl. Theſ.

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De Termino Paschæ octavo Georgii  
Regis.

*vid. 114.*

*Rules to be observed for discharging  
Prisoners out of the Fleet, &c.*

Prisoner dis-  
charged, if  
Defendant pro-  
ceed not in  
three Terms  
after Declara-  
tion.

**W**Hereas many Doubts have arisen on the Rules for discharging Prisoners committed to the *Fleet-Prison*, County, and other Gaols, and for discharging Persons rendring themselves, or being rendred to the *Fleet-Prison*, in Discharge of their Bail (by Virtue of Process of this Court) by *Superseas* for Want of Prosecution; for Remedy whereof, it is ordered by the Court, That if any Plaintiff shall declare against any Defendant in Custody of the Warden of the *Fleet*, or of any Sheriff, or other Officer, by



by Virtue of any Process of this Court, and shall not further proceed to Judgment within three Terms after such Declaration delivered, inclusive of the Term in which the Declaration shall be delivered, the Defendant having appeared. Or if any Plaintiff having obtained Judgment in this Court in any Action against any Defendant a Prisoner, as aforesaid, and shall not charge such Defendant so remaining a Prisoner, in Execution upon the Judgment so obtained, within two Terms next after such Judgment so had and obtained, including the Term in which the said Judgment shall be signed; or within two Terms now next ensuing upon Judgment already had, then such Defendant so remaining in Prison may be discharged out of Custody, where he shall be so detained by *Superfedeas*, to be allowed by one of the Justices of this Court, if Cause shall not be shewn by the Plaintiff, or his Attorney, why such Plaintiff had not proceeded before that Time to Judgment and Execution, as aforesaid, upon Notice to either of them given by the Defendant's Attorney or Agent, and Oath made of such Notice given. And if any Defendant hath, or shall render him or her self to be rendred to the *Fleet-Prison*, in Discharge of his or her Bail, at the Suit of any Plaintiff, where no further Proceedings by Declaration has been had against such Defendant so rendred, before such Render, unless the Plaintiff shall declare against such Defendant within two Terms after such Render; and where any Declaration hath been delivered against such Persons so rendering

Or got Judgment, and not charged in Execution in two Terms, unless Cause be shewed.

Or Defendant render himself to discharge his Bail, *ut supra*.

dring him or her self, or being rendred, of Judgment has been had against him or her before such Render, unless the Plaintiff shall proceed to Judgment upon such Declaration delivered within three Terms after such Render, (the Defendant having appeared) and charge such Defendant in Execution within two Terms after such Judgment obtained, such Defendant may be discharged out of Custody, by *Superfedeas*, to be allowed by one of the Justices of this Court, if Cause shall not be shewn to the contrary, as aforesaid, by the Plaintiff, or his Attorney, upon Notice to either of them, given by the Defendant's Attorney or Agent, and Oath made of such Notice given.

*P. King.*

*Jo. Blencowe.*

*R. Tracy.*

*Robert Dormer.*

THE

Term. Mich: 1 Georgii 2di Regis.

**T**O establish the Practice of this Court, upon the late Act of Parliament, for preventing frivolous and vexatious Arrests:

**It is Ordered,** That from and after the last Day of this present Term, in all Causes where a Copy of the Process of this Court is serv'd upon any Defendant, or Defendants, and an Appearance is entered for such Defendant or Defendants, by the Plaintiff's Attorney, pursuant to the said Act, the Plaintiff's Attorney, in such Case, shall leave a Copy of the Declaration in the Office, and likewise give Notice thereof to the Defendant or Defendants, by delivering an English Notice, written in Secretary Hand, to such Defendant, or Defendants, or by leaving the same at the last, or most usual Place of Abode of such Defendant or Defendants, signifying the Nature of the Action, at whose Suit it is prosecuted; and in whose Office such Declaration is left: And that, in case of special Writs, returnable the first Returns of Hilary and Trinity Terms; and the first or second Returns in Easter and Michaelmas Terms, such Defendant or Defendants should take Notice, that unless such Defendant or Defendants plead to such Action within four Days after the Appearance-Day of the Return of such Writ; and in Case of a common Capias, or any other special Writ; within the first four Days of the next Term; Judgment will

L

Stat. 12 Geo: cap. 29.

After the last Day of Michaelmas Term; where the Plaintiff appears for the Defendant, a Copy of the Declaration shall be left in the Office, and an English Notice in Secretary, deliver'd to the Defendant, or left at his last or usual Abode:

Signifying the Nature of the Action; at whose Suit prosecuted; and in whose Office the Declaration is left; and that unless such Defendants (in Case of special Writs returnable the first Return in Hil. or Trinity, or the first or second Return in Easter or Michaelmas Term) plead in four Days after the Appearance-Day of the Return, Judgment will be entered by Default.



But in Case of a common Capias, or of any special Writ not returnable as aforesaid, within the first four Days of the next Term Judgment will be enter'd by Default. Declaration deem'd well delivered from the Time of such Notice. And if the Defendant does not plead in Time (a Rule being given to plead) the Plaintiff may sign Judgment. Notice in Writing of executing a Writ of Inquiry given to the Defendant, or left at his last or usual Abode sufficient. After the last Day of this Term, the Rule of Trinity Term discharg'd.

be entred against such Defendant or Defendants by Default.

*And from the Time of giving such Notice as aforesaid, such Declaration shall be deemed well deliver'd to such Defendant or Defendants, and not otherwise.*

*And in Case such Defendant or Defendants, after such Notice given, do not plead by the Time the Rules for Pleadings are out, the Plaintiff in such Case may sign his Judgment (a Rule to plead being first given) without any other or further calling for a Plea, and thereon give Notice of executing his Writ of Inquiry, either by delivering Notice in Writing to such Defendant, or Defendants, or by leaving the same at the last or most usual Place of Abode of such Defendant, or Defendants; which shall be a sufficient Notice to such Defendant or Defendants of the Time of Executing such Writ of Inquiry.*

*And it is further Ordered, That from and after the last Day of this present Term, the Rule made the last Trinity Term, to establish the Practice of this Court upon the said late Act of Parliament shall be discharg'd.*

R. Eyre.  
Rob. Price.  
Alex. Denton.  
S. Cowper.

Term.

Term. S'ti Hillar. Anno 2do Georgii  
2di Regis.

**W**HEREAS Complaint hath been made unto this Court of unwarrantable Practices, in regard to Declarations in Ejectment, brought and deliver'd to the Secondaries of this Court in order to have Rules to Plead. For Remedy thereof, It is Ordered, by the Court, that from and after the first Day of *February*, in this present Term, no Declaration in Ejectment shall be taken in, or receiv'd by any of the Secondaries of this Court, unless such Declaration or Declarations be signed by some Serjeant at Law, and deliver'd by himself to one of the Secondaries in open Court. And it is further Ordered; That the Secondaries shall, in the Morning next after the End of every Term, and at all other Times, when requir'd, produce and shew to any Person or Persons who shall demand the same, their Alphabetical Paper of Ejectments mov'd or deliver'd into Court, in each Term, in Manner aforesaid.

*R. Eyre.*

*Ro. Price.*

*Alex. Denton.*

*J. Fortescue. A.*

Mich. t'tio Georgii 2di Regis.

**I**T is Ordered, That upon all Process sued out of this Court, returnable the first or second Return of any Term, if the Plaintiff declares in *London* or *Middlesex*, and the Defendant lives within four Days after such Declaration delivered, without any Imparlance, and such Declaration may be delivered *de bene esse*, and in case the Plaintiff declares in any County, or the Defendant lives above twenty Miles from *London*, the Defendant shall plead within eight Days after the Declaration delivered, without any Imparlance; and in Default of Pleading, as aforesaid, the Plaintiff may sign his Judgment.

R. Eyre.

Ro. Price.

Alex. Denton.

J. Fortescue A.

Pasc.



Pasch. tertio Georgii 2di Regis.

**I**T is Ordered, That all Declarations in *London* or *Middlesex*, delivered pursuant to the Rule of this Court, made the last *Michaelmas* Term, on Process returnable the first or second Returns of any Term, where the Defendant lives within twenty Miles of *London*, shall be delivered with Notice, that the Defendant or Defendants, plead to such Action, within four Days after such Declaration delivered: And that all Declarations where the Plaintiff declares in any other County, or the Defendant lives above twenty Miles from *London*, such Declaration shall be delivered, with Notice to plead, within eight Days after such Declaration delivered. The Rule made in *Michelman* Term, in the first Year of his present Majesty's Reign, to establish the Practice of this Court, upon the late Act of Parliament, for preventing frivolous and vexatious Arrests to the Contrary thereof, in any wise notwithstanding.

*R. Eyre.*  
*Ro. Price.*  
*Alex. Denton,*  
*J. Fortescue A.*

Trin. tertio & quarto Georgii Secundi Regis.

**I**T is Ordered, That from and after the last Day of this present Term, if Special Bail put in by the Defendant be excepted to, the Defendant shall perfect his Bail within four Days after Exception taken; in Default whereof the Plaintiff may proceed upon the Bail-Bond.

---

Mich.

Mich. quinto Georgii Regis 2di.

**W**HEREAS many Inconveniencies have happened to the Suitors in this Court, by Attornies neglecting to file their Warrants of Attorney; by which Neglect Judgments have been reversed, and Plaintiffs have lost their Debts. To prevent the like Inconvenience for the Future, It is Ordered by this Court, that from and after the first Day of the next Term, no Judgment whatsoever (except Final Judgments upon *Posseas*, Writs of Inquiry, and *Non-pros*) shall be signed by any of the Prothonotaries of this Court, unless the Stamp of the Clerk of the Warrants of this Court, be first impress'd on the Paper whereon such Judgment is to be signed, whereby it may appear, that Warrants of Attorney are duly filed.

*R. Eyre,*  
*Ro. Price.*  
*Alex. Denton.*  
*J. Fortescue A.*



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*Michaelmas Term; in the Sixth Year of the Reign of our Sovereign Lord King George the Second.*

**W**Hereas, by a Rule of this Court, made in *Hillary Term*; in the Sixth Year of the Reign of the late King *George the First*, It was among other Things, Ordered, That all Bails taken by Commissioners, pursuant to the late Act of Parliament for taking Special Bails in the Country, should be transmitted to the Lord Chief Justice, or to one of the Justices of this Court; viz. Every Bail taken within 40 Miles of *London*, within 10 Days after the Caption thereof, and every Bail taken above 40 Miles from *London*, within 20 Days after the Caption thereof, unless all the Justices should be in their Circuits, and then as soon as any of them should be returned out of his Circuit; and after such Transmission, should be forthwith delivered to, and filed with the proper Officer, to be entred upon Record; or otherwise it should be as no Bail; and the Plaintiff at Liberty to proceed on the Sheriff's Bond, as if no such Bail were ever put in. And whereas the said Rule hath proved ineffectual, and several Abuses are daily committed by Defendants Attornies suppressing such Bails, or neglecting to file the same by the Time limited in the said Rule, to the manifest Wrong and Injury of the Plaintiffs in such Actions, and in Contempt of this Court; now for the Remediying thereof, it is Ordered, That from and after the last Day of this present *Michaelmas* Term, all Bails taken before any Commissioner in the Country, shall be transmitted and filed with the proper Officer, according to the said Rule, and that no such Bail shall be received or filed, unless the same be transmitted within the respective Times appointed by the said Rule, without Leave of this Court first had and obtained.

Bail taken by Commissioners to be transmitted in 10 Days, if within 40 Miles of *London*, and 20 Days if above.

Otherwise shall not be received or filed without Leave of this Court.

*By the Court.*

*The*

*The same Term.*

That the Bail taken by the Sheriff be put in above, yet they may be excepted against.

And no Bail to be put in above, yet they may be excepted against.

**W**Hereas it has been usually practised in this Court, in all Cases where Bail Bonds have been taken, that if the Bail taken by the Sheriff be put in above, that such Bail shall not be excepted against, but shall stand good and absolute; and whereas such Practice hath been found to be inconvenient in many Instances: *It is therefore ordered* by the Lord Chief Justice, and the rest of the Justices of this Court, that from and after the last Day of this present Term, in all Cases where in Bail Bonds shall be taken, and the same Bail is put in above, the Plaintiff may except against such Bail.

*By the Court.*

*The same Term.*

Plaintiff's Attorney shall deliver all the Demurrer Books to the Judges.

**W**Hereas great Delays have been occasioned by Defendants Attornies not delivering Demurrer Books in due Time to the two puisne Judges of this Court. *It is ordered*, That from and after the last Day of this Term, the Plaintiff's Attorney shall deliver all the Demurrer Books to the Lord Chief Justice, and the rest of the Justices of this Court, and the Defendant's Attorney shall pay the Plaintiff's Attorney for two of the said Books, two Days at least before the Day appointed for arguing such Demurrer; and the Defendant shall not be heard by his Counsel, when the Cause comes on to be argued, unless such Payment be made as aforesaid.

*By the Court.*

*The same Term.*

Judgments to be signed only in the Prothonotary's Office.

**I**t is Ordered by the Lord Chief Justice, and the rest of the Justices of this Court, That from and after the last Day of this Term, all Judgments signed in Causes depending in this Court, shall be signed in the Office of one of the Prothonotaries of this Court, and not elsewhere.

*By the Court.*

*The*



*The same Term.*

*IT is Ordered* by the Lord Chief Justice, and the rest of the Justices of this Court, That from and after the last Day of this Term, no Attorney of this or any other Court, or any Person practising as such, shall be Bail in any Suit or Action depending in this Court. *By the Court.*

No Attorney  
to be Bail.

*The same Term.*

*W*Hereas the Rule made in *Trinity Term*, in the Third and Fourth Years of his present Majesty's Reign, for obliging Defendants to perfect their special Bail within four Days after Exception taken, has answered the Ends for which it was made; but no Provision has been yet made, touching Bail put in on Writs of Error. *It is therefore Ordered*, That in all Cases where Bail shall be filed on Writs of Error, such Bail shall likewise be perfected within four Days after Exception taken thereto, or in Default thereof the Clerk of the Errors of this Court shall Non-Prosecute such Writ of Error. *By the Court.*

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perfected in  
four Days.

*The same Term.*

*W*Hereas many Inconveniencies happen in Causes depending in this Court, by reason that Sheriffs Officers, Bailiffs, and other Persons concerned in the Execution of Process, offer themselves, and are permitted to be Bail in many Actions, and for great Sums of Money; now for Prevention of the like Mischief and Inconvenience for the future; *It is Ordered* by the Lord Chief Justice, and the rest of the Justices of this Court, That from and after the last Day of this present Term, no Sheriff's Officer, Bailiff, or other Person concerned in the Execution of Process, shall be permitted or suffered to become Bail in any Action or Suit depending in this Court. *By the Court.*

No Bailiff, &c.  
shall be Bail in  
any Action.

*Notices*

*Notices fixed up in the Prothonotaries Offices.**Hillary the 7th of King Geo. II.*

**A**ttornies are desired to observe, That in Notices to appear, to be served upon Defendants, with Copies of Process, pursuant to the late Act of Parliament; the Day of the Return of such Process must be inserted, though it happens to be upon a Sunday.

*Michaelmas the 8th of King Geo. II.*

**T**O ascertain the Practice of this Court, concerning the Time for the Delivery, and Demand of Declarations and Pleadings, and the serving of Notices of all Kinds; *It is Ordered* by the Lord Chief Justice, and the rest of the Justices of this Court, That henceforth all Declarations and Pleadings shall be delivered, all such Demands made, and all Notices given before Eight of the Clock in the Evening.

*Michaelmas the 1st of King Geo. II.*

**D**eclarations, Pleas, Replications, and other Pleadings, and also *Oyer* of Writs, Bonds, and other Deeds, shall be demanded by a Note in Writing.

*Michaelmas the 1st of King Geo. II.*

**A**ttornies of this Court are desired to take Notice, That the Court will enlarge no Rule for shewing Cause, unless Notice be given of Motion to enlarge such Rule, and Affidavit made of such Notice. And likewise, that the Court will not set aside any Judgment for Irregularity, unless Motion be made to the Court for that Purpose, before a Writ of Inquiry executed.

**N**otice is hereby given, That whoever would be admitted an Attorney, must apply for that Purpose, before the last Week in Term.

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